

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD
MONDAY, JANUARY 31, 2000 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Seng; Council Members: Camp, Cook, Fortenberry, Johnson, McRoy, Shoecraft; Paul A. Malzer, Jr., City Clerk;
The Council stood for a moment of silent meditation.

READING OF THE MINUTES

JOHNSON Having been appointed to read the minutes of the City Council proceedings of Jan. 24, 2000, reported having done so, found same correct.
Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

PUBLIC HEARING

APP. OF LINCOLN HOLDINGS, LTD. DBA YIA YIA'S FOR A CLASS C LIQUOR LICENSE AT 1423 "O" ST.;

MAN. APP. OF NADER SEPAHPUR FOR LINCOLN HOLDINGS, LTD. DBA YIA YIA'S AT 1423 "O" ST. - Nader Sepahpur, 3252 W. Summit Blvd., applicant, took oath & came forward to answer any questions.

This matter was taken under advisement.

APP. OF BENICIO C. LOBO DBA ZAPATA MEXICAN RESTAURANT-CANTINA FOR A RETAIL CLASS I LIQUOR LICENSE AT 815 "O" ST. - John Boehm, Attorney, 811 S. 13th St., representing applicant, took oath: I'm here on behalf of Mr. Ben Lobo, the owner of Zapata. It's a new Mexican Restaurant & Cantina located in the Haymarket area. And since the time that he has been operating under a temporary operating agreement with the prior owners, it has become a very popular restaurant not only for many citizens of Lincoln, Nebraska but, in particular, it's been very popular with the Hispanic community who like to gather at that location later in the evening to listen to music & socialize with family & friends. We have attempted to meet with the Lincoln Police Dept. We met with Investigator Fosler & Capt. Citta & we've tried to address the concerns that they have raised. We have increased & improved our security to the point where we now have three full-time security officers on-duty. We have equipped them with two-way radios. And, in addition, Mr. Lobo is also monitoring the security personally. Both he & the head of his security have cell phones. We have also instituted a policy where we are checking everyone's I.D. No one is admitted without an I.D. And we have attempted to address other issues that the Lincoln Police Dept. has addressed to us because we want to ensure that we do comply with all the rules & regulations. One of the things we have done, too, in recognizing that some of our clientele who are very desirous of being permitted into the restaurant, many of them have come from different locations, different areas where different codes of behavior are in effect but in order to educate them & ensure that we

can control & monitor our clientele, we have developed our own rules of conduct which we have published. We've printed those up. They're very simple rules of conduct. They are printed in both English & Spanish. They are posted on every table. They are handed out to individuals when they come in. They're posted at the doorways & in the restaurants & we have wanted to inform our customers what is expected of them when they come in & the consequences if they don't comply with these simply rules of behavior. And those were just put up & posted this weekend after we had a meeting last week with the Lincoln Police Dept. So, Mr. Lobo is making a sincere effort to ensure that his restaurant & cantina complies with the rules of the Liquor Commission & all applicable ordinances pertaining to that operation. Again, it's a very popular restaurant with the Hispanic community. If you have any questions, I'd be glad to answer them at this time.

Jon Camp, Council Member: John, I have a couple questions. As a business down in the Haymarket & a developer there, I guess I'm concerned about some of the perceived activities that've been going on. Could you, perhaps, give the Council a chronology here of how this swap went with the Soto family from the old Bongos & where we're at today & perhaps describe, in a little bit more detail, the conduct of the organization & whether this current establishment, Zapata's, has...is it dance related, food, or go into more detail & help me understand it.

Mr. Boehm: Sure. The original Bongo restaurant at that location was owned by the Soto family corporation. Mister Lobo, of course, owns a grocery store here in Lincoln & he also owned a grocery store in Grand Island, Nebraska. Both of which have Class B Liquor Licenses. Mister Soto was spending a lot of time back & forth between his two operations. The Soto family was interested in taking on a business enterprise in the Grand Island area. And they had been friends, acquaintances from before. They agreed to a straight business swap, if you will, I don't know a better way to describe it in which they exchanged...the Soto family exchanged their business here in Lincoln for Mr. Lobo's grocery store business in Grand Island. It was done with all the property & equipment, inventory, what have you in both locations exchanged. There was no monetary consideration exchanged over & above the transfer of the property between the two owners. That allowed Mr. Lobo to concentrate his business activities purely in Lincoln, Nebraska & for his own family health, personal & business reasons. The previous restaurant, the Bongo restaurant, was a restaurant with a Columbian theme. They also...my understanding was they also provided an opportunity for dancing & what have you later in the evenings on weekends. Mister Lobo, since taking over the restaurant, has...it is now a Mexican theme restaurant. Later in the evening when the primary food service operation stops, around 9:30-10:00 o'clock, they remove any minors on the premises & then they provide music that individuals can dance to, listen to, you know, whatever their choice is & it becomes more of a social atmosphere for a large number of family groups, a large number of friends, & what have you.

Mr. Camp: Is the business conducted on the first floor only or is it also the lower level?

Mr. Boehm: No, it's on the first floor. That's the only thing that the lease presently authorizes. I don't believe...there was a teen dance club, at some point in time, that was in the lower level, had nothing to do with either the prior operators, Bongo, or the current owner at this time. It's vacant is my understanding.

Mr. Camp: I'll wait until we hear other testimony.

Coleen Seng, Council Chair: I want to follow up. Is the teen club gone then?

Mr. Boehm: Yes, it is.

Ms. Seng: I don't think there's any other questions.

Mr. Camp: Was the Police Dept. going to make any type of presentation this morning? I think Capt. Citta is.

Ms. Seng: Do the Police want to make a presentation?

Capt. Joy Citta, Lincoln Police Dept., Center Team, took oath: Pursuant to the request of a temporary liquor license, the Police Dept.

was asked to do an investigation for that liquor license. I've just got two pieces of information for you. That the investigation was conducted for the Zapata Mexican Restaurant at 815 "O" Street. That on Dec. 21, 1999, the Lincoln Police Dept. was informed that Zapata's, owned by Mr. Lobo, that he had recently acquired that business which had previously been known as Bongo's restaurant, & that he'd changed the name to Zapata's, that he was selling alcoholic beverages without a liquor license. The business was contacted, was found that the name had been changed, that there were alcoholic beverages being sold without the license. They did shut down...voluntarily shut down the business that night. The following morning, however, they did file & have their temporary license issued by the State Liquor Dept. So, the license was handled by the Nebraska Liquor Control Commission on Dec. 22, 1999. On Jan. 23, 2000, two officers received a call for service to respond to a 911 disturbance call outside of the Zapata's Mexican Restaurant. After handling that disturbance, the officers completed a tavern check inside. They noticed one patron who appeared to be extremely intoxicated standings by one of the entry doors & holding a bottle of beer & drinking from it. When the officers contacted that person & attempted to move them out to the outside hallway to discuss this with him, another patron, presumably a friend, attempted to grab one of the officers to either talk to him or prohibit the movement, not sure, a fight ensued. During that fight, one of the officers was struck in the face & then bitten on his hand. We did find that the patron inside had been over served & we have written a tavern violation sent to the Liquor Commission on that particular incident.

Mr. Camp: Capt. Citta, are those the only reported incidents that have occurred there or are there...

Capt. Citta: Yes.

Mr. Camp: There haven't been any other disturbances?

Capt. Citta: No.

Mr. Camp: What, from the Police Dept.'s standpoint, has been the surveillance of this location?

Capt. Citta: It's...I think they've tavern checked a couple times, probably two to four times since the December transfer of the license. About the same that we probably get to most different locations in the downtown area. And the one tavern check only occurred after we were already there on a disturbance call which was outside the business, not involving the business.

Mr. Camp: I would appreciate it if Mr. Lobo would perhaps make some remarks. I don't know, John, if you would care or to introduce himself.

Mr. Boehm: No, I'd be happy to have Mr. Lobo make some remarks. I would like to address a couple of the concerns raised by the Police Dept. As to the situation involving the temporary operating agreement, there was a...I think this was more of a misunderstanding than anything. The parties had signed the temporary operating agreements for each other's establishment in addition to the documents transferring the business. There was a problem getting a signature of one of the individuals from the Soto family corporation on the liquor application for the Soto application & it didn't get submitted as timely we would've liked & I think there was

a misunderstanding as to the timing of the switch over there. When we were informed that, you know, it was operating in that manner, of course, we promptly shut down & until we got the Soto liquor application on file with the Commission so that the temporary operating agreement was valid. As to the incident that Capt. Citta testified to, I would note that the original call to the Police Dept. was made by our own security chief & involved a couple of individuals that were arguing over some money. They had left the establishment &, at that point in time, one of the individuals was assaulted by a third party & one of the other parties then joined in & our security chief called the Police & also broke up the altercation. So, that was done & I think done properly & acknowledged so by the Police that were on the scene at the time. It was in a subsequent check after that that the other incident occurred. You know we did meet with them after that. We've attempted to implement mechanisms & measures to try & avoid that type of situation in the future. Ben, if you want to come on up, I think maybe they have some questions for you.

Mr. Camp: Mister Lobo, I had had some constituents contact me & other business people that expressed some concern about some of the activities &, obviously, they want to have a peaceful environment in the Haymarket. Do you have any comments? I've heard reports, I guess, of some gang-like type activities & possibly some graffiti & so forth.

Ben Lobo, 1550 SW 14th St., applicant, took oath: This is more 80% restaurant & 20% bar on the weekend, Friday & Saturday. I tried do it the best, you know, (inaudible) Hispanic (inaudible) in Lincoln.

Mr. Boehm: You don't allow people with gang uniforms & things into your restaurant, do you?

Mr. Lobo: No. I no let these people come inside, no. I hire my own security. I tell all the customers what they need inside. You gave them the list?

Mr. Boehm: Yes, I already passed it out.

Mr. Lobo: I put it on the tables, put it in the (inaudible) & the outside windows, inside windows, you know. (Inaudible) working hard to (inaudible) & the security guards too, you know, checking out everything is fine. Then Saturday these two Police officers come inside the building (inaudible) for me tonight. They say I think it be okay for me, the two Police Officers told me Saturday night.

Mr. Boehm: Yeah, there were checks both Friday & Saturday this last weekend &, as far as we know, everything was fine.

Mr. Camp: John, I think you said that Mr. Lobo has three security people in the evenings is that...

Mr. Boehm: That's correct, on Fridays & Saturdays when the cantina-type operation is in effect.

Mr. Camp: I guess it strikes me as a little unusual to have to have security people in a restaurant like that or am I missing something?

Mr. Lobo: I do it in the night, ten o'clock to one o'clock, Friday & Saturday.

Mr. Boehm: Just in the later evening hours when they shift from kind of a more of a restaurant operation to more of a night club atmosphere I guess you could call it.

Ms. Seng: Do you believe your applicant, your client, understands all the laws that need to be followed?

Mr. Boehm: Yes, because I've discussed this with Ben on numerous occasions & we've gone over it. He has, in the past, attended the management course. He is making arrangements to have his staff attend training &, also, his manager to attend the management class & Ben is also going to go through the class again at that time as well.

Ms. Seng: Okay, that's good.

Mr. Boehm: We've talked about it on numerous occasions & I believe that he does understand what is required.

Jerry Shoecraft, Council Member: And I just want to say, I think you've been working tremendously hard for the last year & a half that you've been coming before us of trying to do the right thing & sometimes it bothers me when people start these rumor mills about gangs & graffiti, you know, which I think is totally inappropriate. And, hopefully, you will follow the laws & have success in your business & I wish you well.

Mr. Boehm: I do want to emphasize that the later evening hours, 10 o'clock & whatever, I mean, only people 21 yr. of age & older are authorized to be in the club at that time. Everybody else is either removed or been denied entry at the door & there's a complete I.D. check no matter whether it's somebody like me or you or whatever, we're taking absolutely no chances whatsoever.

Clerk: Any further testimony in regard to Item 3. either for or against?

Jeff Fortenberry, Council Member: Can the Police Dept. come forward again, please? I'm sorry if I missed it, did you give a recommendation?

Capt. Citta: No, we did not. We were just going to provide the information.

Mr. Fortenberry: Recommendation?

Capt. Citta: I guess all I can tell you, sir, is that in the year's I've been involved with the liquor industry, I have not had another

temporary license have violations prior to the issuance of a permanent license where we were dealing with the ongoing work of it. We've had what we feel are two violations in the 30 days time period prior to the issuance of this.

This matter was taken under advisement.

AMENDING SEC. 9.16.230 OF THE LMC TO DEFINE "NUDITY" & TO MAKE IT UNLAWFUL FOR A PERSON TO APPEAR IN ANY PUBLIC PLACE IN A STATE OF NUDITY OR FOR AN EMPLOYEE OR PERFORMER TO HAVE ANY PHYSICAL CONTACT WITH ANY PATRON:

**** BEGIN VERBATIM TRANSCRIPT ****

Dana Roper, City Attorney: What you have before you is an ordinance that does two things. One, it prohibits public nudity. And those terms are explained & defined. And, secondly, it prohibits contact between patrons & performers. We have drafted a substitute ordinance which prohibits nudity & does not deal with the contact situation. And depending on the direction that we get from the Council, we would go back & retool that ordinance if the Council desired or if the nudity ordinance were defeated, we wouldn't worry about it. Or we can worry about it regardless. We're just looking for some direction. And I guess that's...so what we have before us is an ordinance that would ban nudity & would prohibit contact between patrons & performers not only in liquor license premises but other premises as well.

Coleen Seng, Council Chair: Dana, I believe this morning, during your Pre-Council, you gave a warning for parents & children if they were watching right now.

Mr. Roper: The ordinance contains language that parents may not consider appropriate for younger children & there may well be some language that is used in discussing this ordinance that some parents may not wish younger children to hear. And so, that was a warning that we gave before discussion this morning.

Jody Busse, 1237 "C" St., Apt. 2, President of Lincoln-Lancaster County Women's Commission: The Lincoln-Lancaster Women's Commission, first of all, sincerely appreciates the opportunity to provide feedback on the proposed ordinance. The Women's Commission had already met for the month of Jan., 2000 & our February meeting is not scheduled to be held until Feb. 9th. However, we did make a special effort to make copies of the proposed ordinance available to all of our Commissioner's & requested comments. As with the City Council & its differing opinions, so goes the Commission. We have diverse opinions on this proposed ordinance so we can't offer a perspective as a Commission. We heard from Commissioners who believe that what a woman chooses to do for a living is her choice alone. We heard from other Commissioners who believe that it is appropriate to set some community guidelines. We respect the diversity of our Commissioners & what they bring to the Commission & we honor that diversity by not taking a stand on this particular proposed ordinance. The one common voice we did hear, however, was on the aspect of breast feeding & that there must be an inclusion to this ordinance that places no restrictions on breast feeding. While the intent to not include nursing mothers was indicated in the discussion portion of the proposal, that intent is not specifically stated in the ordinance. I do understand,

however, that possible with the revision earlier today that that was included so I do want to recognize that. I just want to comment that we do, as a Commission, feel very strongly about that particular inclusion. On behalf of the Commission, I would like to thank you for including us in the discussion for soliciting our input. Several City Council representatives contacted the Commission & we look forward to future opportunities to offer you with advisory information through the Commission & I'm open to answering any questions that you might have at this time.

Mr. Shoecraft: Was it because of the clear diverse opinions of the various Commissioners the reason that you guys didn't take a stand or position on this...on this particular issue?

Ms. Busse: That is exactly correct.

Mr. Shoecraft: Okay. I guess I was thinking that you guys would since, in the past, we've had matters that come before this body that you guys have taken position as dealing with basically with women & women's rights &, in the past, you have. So, I was just a little surprised that your Commission didn't take a stand or a position on this particular issue.

Ms. Busse: Again, I think it's the diversity of the Commission which I think speaks well of our community & so, because of that, again, we want to honor our Commission as a whole & since there was no clear consensus, then to offer a recommendation beyond that would certainly not be appropriate at this time.

Leon Vinci, Health Dept.: I bring with you some information that the Board of Health generated at their recent meeting. And I'll read it to you, I believe you all have a copy, "The Board of Health is very concerned about domestic violence & is supportive of anti-domestic violence measures in our community & would like to see the City move forward on any initiatives that would help curb domestic violence in our community. [A copy of this statement is on file, with the legislation, in the Office of the City Clerk.] The Board felt it was important, in their discussions, to share this with the Council. Needless to say, public health statistics show that domestic violence related activity is not only of concern but it's a major issue within our community as well as others. And the feeling was that any move in a direction that would promote or enhance an improved quality of life as it relates to the public health of our citizens is in order. Secondly, & on a related issue, & you heard from the prior speaker concerning this, the Board of Health & the Health Dept. promotes breast feeding as a very important component of our public health. Our WIT program, the La Leche League, Healthy Mothers & Healthy Babies Coalition, all support breast feeding because it is a proven public health measure that really enhances the life of the infant. So, therefore, in your considerations, please take that into account as you look at the language of the ordinance & we hope that those provisions will be there. And I'd be happy to respond to any questions.

Kit Boesch, Human Services Administrator: I was asked what the opinion of my office was regarding this ordinance. You know, many years ago, the Federation created a video called "Lincoln - Community with a Conscience". So, I went & looked up that word. It said "conscience" was

a sense of moral goodness about one's own conduct, intentions, or character, together with the feeling of obligation to actually do something about it. So, it wasn't enough to just believe in something, it was to have the guts to do something about it. I think Lincoln is a community with a conscience & I think that's part of why you're hearing this ordinance today. You know we don't believe in letting drunks, intoxicated people, out on the streets, (inaudible) to freeze to death or to put them in jail when they can't defend themselves. That's why we have Cornhusker Place. And we don't believe in letting kids be out all night with no supervision in an unsafe street. That's why we have shelters. As a City, we don't promote businesses or allow activities like selling children or prostitution or beating up women because that's not the kind of message we want to send about the city that we believe we should be. Now, a lot of times we pass laws for that & it's a lot easier to pass a law than it is to change the moral fiber of a community. The moral fiber of a community to change takes a lot of time & guts & patience. And it also takes a total community effort that has to start with the leadership of that community. And that means that sometimes some of those hard decisions need to be made by leaders like you. Last Friday, you heard a whole presentation on the increase of domestic violence & one of you asked the question what causes that. It would be nice to have a pat answer like well, it's poverty or it's substance abuse or it's the media. But the truth is that the underlying answer to that question goes much, much deeper. Issues like domestic violence, child abuse, teenage pregnancy, racism, those aren't easy things to get at. The things that reflect on those go much deeper. They're about how we learn & how we teach our children to learn, to respect each other & to treat each other the same as...the same respect that you want for yourself. (Inaudible) underlying thing that takes a long time to learn. And if we're going to learn it, we have to find ourselves making decisions like weighing needs & values. I do this all the time when I look at Human Service Agencies & Programs that may tend to go out of business. And one of the questions I ask myself is "Do we need it?", "What happens if it isn't there?", "What value do we lose?" And, so, I asked myself that in reference to this ordinance. What happens if we don't allow topless dancers to be in premises? What do we lose? Well, do we hamper businesses like liquor establishments from promoting business? Hardly, we have hundreds of bars that do good business. Well, do we deprive ourselves of jobs, economic stability for people? I hardly think that's true when you have one of the lowest unemployment rates in the entire country & there are many, many, many jobs available. Do we restrict people's freedom who wish to refuse to respect other people or who wish to demean women in the process? No, not really. If they want to do that, they can go to a zillion other cities around Lincoln. What we do do though is we send a message to our community, our families & our children that respecting others with the same respect as you want for yourself is a standard that we set here in Lincoln. And it's a very high standard. We don't need naked or semi-naked women & men dancing in bars. What we do need is to hold a standard in this community that says to us & to others that Lincoln is a healthy place to live. Passing an ordinance like this isn't the quick fix & it probably won't be

popular in lots of difference places. But it does continue to weave that fabric of our community that helps our community get stronger every single year with leaders like you. I don't know what you'll do with the ordinance but in terms of the human services office, an ordinance like this can only add value to the community & certainly doesn't detract. Thank you.

Clerk: Anyone else wish to come forward in favor? Okay, those in opposition may come forward.

Becky Vandenberg, 8301 W. "O" St.: I'm probably the last person in the world you'd expect to see up here with an ordinance such as this. I'm not a dancer. If I was, there wouldn't be anybody there. I have two teenage daughters, 20 & 18. I don't frequent bars of this nature. But dancing wouldn't keep me out of them if I did. I have a problem with us stepping on the toes of everyone that we have to deal with here. We all are...we're all over 21. We're all registered voters, or we should be if we aren't, & there's an entire generation of people out there that think exactly the way I do. And when you start to infringe on the rights of other people, is when other people are going to start to come out of the woodwork such as myself. You have to excuse me, I just came from work, read the paper this morning & saw there was going to be a meeting, decided I would come & speak my mind. As I say, I don't frequent positions...or, places of this nature but I also would not be the first one out there to stop & say well, you can't do this because my convictions say that you can't. I was involved with an...in an abusive relationship several years ago & I will guarantee you that he didn't drink, he didn't do drugs, he didn't go to bars like this. It had nothing to do with that period. If the women choose to do this for a living, why are we going to step in there & say no, you can't. I was born & raised in Kansas City. We have bars like this everywhere. It means nothing. It's the people, the individuals that take themselves to these bars, it's the individual that works at these bars & it's the individuals on the outside that are standing out there & saying wait a minute, you can't go in because my convictions tell me that it's not right for you because I can make that decision for you. And no one has the right to make the decision what's good for me other than me. I'm 43 yrs. old. I've been around the block once or twice. And I have the right to say what I want to do & what I don't. And thank you very much.

Steve Mann, 1401 "D" St.: I've been in a number of other places. I've been in the Zoo Bar before. I go to them with my friends. I'm just afraid that if we put these people out of business, you'll still have to pay for people sitting at home & stuff like that. Those other guys have been coming in here & asking for sex & will you go home with me or...just now they decide they cannot do that. So, they are doing a good job.

C. L. Jones, operator of Mataya's Baby Dolls, no address given: In my opinion, the City Council, the City of Lincoln doesn't have a right to tell me or anyone else what is morally correct for myself. Everyone who works at any club (inaudible) club is an adult. We don't allow minors in. It just doesn't happen that way. So, as an adult, I should...I feel that we can have the type of entertainment we choose. Have any of you been to what is considered a regular bar lately? Guitars & Cadillacs, some of the

other dance clubs? You see more groping, fondling, caressing there than you will ever see in a strip club, gentleman's club. I'm the head of security there (inaudible). I can guarantee you I don't allow anything to go on that shouldn't go on. We're doing everything above board. We have contacted the Lincoln Police Dept. to find out what we can & cannot do. We abide by what they tell us. So, therefore, we are not doing anything illegal & we're not doing anything wrong. As far as morality, that's a personal choice. We don't force anyone to work there. We don't force anyone to partake in coming there. They freely come through our doors. If you have any questions for me, I would be glad to answer anything you'd like to ask. That is my opinion. I thank you for your time. If you'd like to ask anything, please contact me. Thank you.

Ms. Seng: Thank you for coming.

John Ways, 2511 Bretigne Cir., operator of Mataya's Baby Doll: It seems that the City of Lincoln want to keep women from advancing themselves economically. Sure, the City allows them to work but only at the type of jobs that the City wants. God forbid some dancer make too much money in the City of Lincoln. I will, of course, mention that this country was founded on a few big principles. Freedom of speech & expression, just to use those two as an example. The freedoms that the City allows at the adult bookstore or at the Gas 'N Shops as well as a lot of other places that sell all types of adult materials, books, & movies, things of that nature.

Ms. Seng: Mister Ways, could you speak a little louder or pull the mic over. Thank you.

Mr. Ways: You see more groping & grabbing & squeezing & licking & slobbering on TV & on cable than you see at any of the adult clubs. And you only have to be 17 yrs. old to get in & see an "R" rated movie like Fatal Attraction or any of those other things where they show an awful lot more than you'll see in our club. I feel that the order is selective. Even according to the press & our Chief Casady, the order is aimed at me. The press told me so. Mister Hines said that they used the name of our club & the Chief of Police used the name of our club & said that this is the club that's owned by John Ways & we're going to shut him down. Well, it's a matter of common knowledge that the Police Dept. was sued by my father. Even the newspaper printed that once again. They were sued for doing all kinds of things that, well, may not have been exactly correct. He won his suits & it doesn't take a big leap to see that there are still some types of hard feelings left behind. Still, it's selective that in a business is owned as well as run by women & minorities, & we all know that there's not another one of these types of businesses in the City. The Lied Center has nudity. Some people call that art. You still pay to see it. So, it's nudity for a price. UNL has nude models for their art classes &, of course, people pay to go in there & draw & paint pictures of that nude person, to see the nude model. Then, of course, there's all the photographic studios in the City of Lincoln that do nudes, pictures for husbands, wives, boyfriends, girlfriends, & things like that. And, again, that's nudity for a price. Heck, if you pass this ordinance, even the Police Dept. would probably have a problem with it. They have a gymnasium in their basement with showers. And that's a very public building. And I'm sure that someone who's using those weights down there, 'cause you got some pretty buff Police officers, must be availing themselves of those showers & I hazard a guess they're probably naked in there as well. I'd like to know why the City wants to go after the minority on businesses. They allow the Ku Klux Klan to have their headquarters here. You allow that guy that sells all the Nazi stuff to operate his business here. And all you say is we don't appreciate that, we're not supportive of that, we're not going to pass an ordinance to kick them out of business. But they do go after my business. And you can say that that's not the case, but even a person of low intelligence will tell you that it appears that you're just going after my business. The Night Before, the Royal Grove, the Foxy Lady, they've been around for 20 yrs., same type of business, nobody bothers them. I do realize I'm the new kid on the block & the new

kid on the block catches a lot of crap but still it appears unfair. Since I'm the only one that they're going after, since my name has been used, my club has been broadcasted, & the press has stated that the City Council, from what they've spoken to, has said that they're using my club as the reason for this ordinance, it just seems a little selective. If you dislike the club, then you elect not to go there. There are no hostages working for us. We don't run out in the street & bonk some woman on the head & throw her on the stage. We don't run out there, grab a guy & say it's going to cost five dollars, buddy, to come into the building. And it doesn't cost them five dollars to leave. They come of their own volition 'cause they choose to. Everyone there is old enough to have freedom of choice. After all, they can vote, they can serve their country, I'd like to think they can choose what kind of show they'd like to see. And you do get more contact at every other dance club, the Pla Mor Ballroom, Guitars & Cadillacs, Coyote Willy's, those people are all over themselves. If somebody were to reach out & honk one of the dances, I can assure you, right now, that they would be out of that building, quick & fast. I ran BJ's Hideaway for a while. We didn't have any tavern violations there. And people tried to grab at dancer's because there was alcohol & they were out of there fast. The Police Dept. has come to our place. At the beginning, they came in on a regular basis. Most of the shift sergeants came in, walked around the building. They were nice & they were polite. We had some other SWAT guys come & wanted to look through the building in case there was ever a brouhaha & we allowed that. Now, there are some Police officers that we do not let come into the building & that is because they've come in there acting like they owned the place, like they had the right to tell me how to run my business. It's five dollars. They don't get to go to Red Lobster & say give me food. They pay for that too. If they're polite, they can come in. When they're rude, they're like every other customer & you're not allowed in. It's a gentleman's club & it says right on the wall what all the rules are. You will behave yourself. You don't get to call them names. You don't get to act like a jerk. You must behave yourself like a gentleman or we will put your behind out on the streets. If somebody grabs one of the dancers, you would know about it 'cause we would have them arrested. It's as simple as that. Any questions?

Ms. Seng: Thank you for coming.

Mr. Ways: Thank you.

Clerk: Anyone else wish to come forward in opposition?

Jessie Madison, no address given: I am an adult entertainment... entertainer at Mataya's Baby Dolls. I'd say we have the safest club. I feel safer where I'm working as an entertainer than I am in my own home. And I've...we have security cameras everywhere. If there's a problem, people leave faster than what they came in. What we do is...you know, I'm a woman. I'm old enough to make like decisions of where I want to work, know what I want to do with my life & stuff like that & I don't think it's right for you guys to cut down on us as, you know, adults 'cause we choose to do what we want to do. And as far as morals go & stuff, you know, it might not be morally correct for you guys but it is adult entertainment & it is something that we like to do. There's no touching allowed or as far

as the customers touching the dancers. If we have any problems with customers, we do let the security guards know. They will be removed. It's...I don't know, it's just a safe place to work. And I think that, you know, if you're old enough to get in there & it's what you want to see, it should be okay. That's all I really have to say. But thank you.

Ms. Seng: Jessie, we had several phone calls that came in this morning. In fact, lots of them. And I was looking here, we had one call from an employee that said that she had a small child. Was that you that had called in? No, that's not you. Okay. That was another employee that had called. Thank you. Just a minute, Jessie, I think Annette wanted to ask you something.

Annette McRoy, Council Member: Did you read the article in today's paper?

Ms. Madison: No, I did not.

Ms. McRoy: About what goes on there, because you're saying there's no touching or contact allowed & so I was wondering which, you know, if the article was incorrect as far as what described the different types of things that were available. Whipped cream off the dancers or chair dances. So, I guess is this article...you haven't seen it but you wouldn't know if it was incorrect or not, I guess.

Ms. Madison: Yes, there is chair dances. They are not...I mean, yeah, it's pretty much like a lap dance but, I mean, they're not groping & touching & all over on us. We can touch them as long as we're comfortable with it but it's not like we're, you know, having sex with them, you know, rubbing them off or anything like that. Yeah, we do do whipped cream shows & mostly it's the girls with the other girls. And, yeah, for \$5 you can lick whipped cream off a girls stomach, off her leg.

Ms. McRoy: So, you're just allowed to touch the customers but the customers can't touch you.

Ms. Madison: Right.

Ms. McRoy: That's the line that's drawn.

Ms. Madison: Right.

Ms. McRoy: Okay, thank you.

Ms. Madison: (Inaudible) questions?

Ms. Seng: Thank you for coming.

Shane Meares, 2255 Vine St.: Like Ms. Vandenberg earlier, I only heard about this issue earlier today. I don't have prepared statements. Why am I here? I'm here because an ordinance such as this, frankly, scares me because of what it really boils down to. The media's here. There are a lot of people here to listen to this issue, to speak out on either side of it. And that's because it boils down to basic rights. The application of one person's morals onto another person & community standards, which is a very vague term, & is often misused. We've heard discussion about nudity in other places, nudity at home, nudity on the Internet, nudity, just someone walking around town, all of this boils down to context. What context is this nudity in? I feel that these establishments present nudity in a very safe context. Also, these establishments are a microcosm. The owners, the performers, the patrons go into this place & take part in this activity free from the eyes of children, from the eyes of those who disapprove. It's basically set off

by itself & serves no danger to children or the rest of the community. The exterior of the building poses no harm to the community standards, poses no danger to children who might be adversely affected by nudity in the wrong context. There's a lot of discussion about even the language being used in the ordinance. We didn't even present it. We didn't even give the definition of nudity or public place or anything like that for, I suppose, fear of who might hear it, who might be exposed to it. I also think that that's going a little bit too far. Nudity is only dangerous & sexual comments are only dangerous if we present them in a way that make children think that they're negative or not appropriate. I think that a positive discussion on this topic by professional people, trying to get the message back & forth, I think that that's no danger in that. I would have no problem, you know, in the future when I have children, for them to overhear discussions involving words that deal with our anatomy, with how one person interacts with another. I don't think that that's a dangerous thing & I think that the community...when you talk about community standards, sometimes gets frightening images in our heads of people being exposed to things that they shouldn't or hearing things that they shouldn't. And I think that if we set it up as such a big deal that everybody's afraid of negative consequences that'll arise just by discussing the issue or not, hiding it away in a corner where we don't have to deal with it. So, I think what this really boils down to is one person's views versus another. And it comes down...I notice that there aren't too many other owners here who would be affected by this ordinance. The Baby Dolls owners are here. I don't see a lot of the older clubs here. I think they may not have been too fearful of this ordinance. They may have known that a very diverse community was going to come out & speak in favor of them regardless of whether they were here or not. They may be here & maybe I just haven't...because they haven't spoken, I don't know that they're here but I think that that speaks well because if this ordinance passes, I think that that would be a very gregious(?) error. I think that we need to not let the community step in to bounds that are more of the individual persons right. And, like I said, I had no prepared statement so I just wanted to get my views out on the table, represent at least my portion of the community which is not just the younger audience, the younger part of the community but also those who are sitting back & not very vocal. I'm not an activist person. I'm just a regular citizen in the community with my own moral beliefs & standards & I would hope not to project mine on to other people & I'd hope the same for myself that they wouldn't project them on me. Thank you. Any questions?

Ms. Seng: I wanted to make a comment. Because I represent Northeast Lincoln, I have received many, many phone calls & many, many letters since the juice bar opened up. I think what people have been so offended by has been the signage outside.

Mr. Meares: The wording of the signage or...

Ms. Seng: Yes.

Mr. Meares: Okay, I haven't actually driven by...

Ms. Seng: And there's absolutely nothing in the ordinance that we're dealing with today, that even approaches the signage. I mean we cannot touch that.

Mr. Meares: Which is why I didn't think that the ordinance itself posed any danger of whether children heard it or not.

Ms. Seng: But that is what I have had so many phone calls & so many letters on previous to today.

Mr. Meares: Yeah, the topic of the outdoor...the signage & the advertising, I think, would seem to be a separate issue. I think that that could be tackled in a different arena rather than to outlaw the practice itself. Also...

Ms. Seng: I don't think we can tackle that probably.

Mr. Meares: What's that?

Ms. Seng: I don't think we can tackle that probably.

Mr. Meares: Well, one point you did bring up is the number of people who've contacted you from your area. I would like to say that likely on an issue such as this, because of the sensitive nature of it & the perceived (inaudible) the perception of people who would speak out on the side of these clubs is not for print, not socially acceptable. I don't think that you're going to get a large portion of the community that supports these establishments or at least supports their right to exist. I don't think that they're going to be very vocal about it because of the sensitive nature of it. I don't think you're as likely to hear from them as you are from people who are upset on the other side of the issue. So, I'd hope that for all of you in the districts that you serve, that you would take into account that percentage-wise, the people in support of these establishments existing are going to be way less vocal & take that into consideration.

Ms. Seng: That's your opinion.

Mr. Meares: Yes.

Jeremy White, no address given: My girlfriend is an entertainer at a gentleman's club here in Lincoln. I have to say that me, myself, in my personal opinion, I feel that she is more safe in the club with the bouncers & the environment, than she is out in the community. I would say that the clubs here in Lincoln provide adequate security. They run clean businesses. And as for the women, they're watched by security. If someone were to mess with them, to grope them, say rude comments to them, the woman then does instruct one of the security members or informs them of what is going on. The security member will then deal with that in an appropriate action. (Inaudible) as I...even though I am a boyfriend to an entertainer, I also see myself as a customer. I do go in there quite frequently. I'm in there almost every night. And I watch. I witness what's going on. And I feel comfortable because if all this supposed groping or, you know, morals of that were to set into me, then I wouldn't feel comfortable dating a dancer. But I know it's her right & it's her job & she chose that job. As for the establishment, personally, I just think if you don't like the clubs, don't enter them. You know they're there, they're going to be there, but you can make your own decision of whether or not you want to be around them or not. As for what was said earlier, you will see more contact in a Lincoln public pool, in a City

pool, you will see more contact, more groping, more kissing, more anything. You don't see that when you're in any club here in Lincoln. And I just don't understand, personally, why they're going to try & take this away. This is what, obviously, some of these women in Lincoln, this is how they make their money. This is something that they do. They don't do it just because somebody forced them to. They do it because it's entertainment. It's some of their talent. They like to dance. And they're going to perform a show. It's not like they're going out there to be hookers or going out there to, you know, feel up & touch on a man to make him think that they're going to be hookers. It is all purely & strictly entertainment. Everything I've seen, I heard something about an article in the newspaper this morning about something, Mataya's Baby Dolls would not let Police officers in their door. That, in fact, is false. There are signs posted, very boldly, at the door that says "Law Enforcement welcome" but all they ask is that you have a security guard with them & that they conduct themselves in a gentlemanly manner. It is a gentleman's club, whether you are Law Enforcement or you are a customer, they ask that you respect everything in there, everybody in there, whether it's staff to entertainment dancers, whatever, that you respect them & you don't run around there like you own the place.

Ms. Seng: Okay. Are there any questions?

Jon Camp, Council Member: I had one, Coleen. Jeremy, you mentioned that your girlfriend works there. Do you have any...what do you do? Are you connected with the club at all?

Mr. White: No, I'm not.

Mr. Camp: Thank you.

Mr. White: That's all I have. If you guys have any other questions...

Ms. Seng: Thank you.

Mr. White: Thank you.

Bill Crawford, 105 N. 8th St.: I'm probably the last person you figured would be opposed to this ordinance. I do want to say a couple things, I'll just be a minute. A lot of the clubs in Lincoln don't allow physical contact & I want to make sure that I reiterate that. Their rules need to be put up in the clubs. And, another thing needs to be put up in the club which is their occupancy. The Fire Marshall will come around in the City of Lincoln & he will count heads so if any bar is occupied with patrons, disabled or not, then they will...the bar will get a penalty. I know this because I wrote the Fire Marshall & the Liquor Commission about a year & a half ago. Also, I'd like for some of the...& this is going to be really self-serving, I know, I'm a disabled man who frequents those clubs. I'd like two things, basically, from those clubs & one of them is I'd like for them to...the owners...to consider looking at their books & increasing the pay scales for the women & other staff who work there. This'll ensure that the girls are making enough money so that they can live. And I'd like for them to also inform them of their rights before they work there. And if there's no physical contact, signs would need to be posted which it's already been said. And signs need to be posted & occupancy needs to be posted so that the public is not in ignorance of the law. And I'd like for some of the owners in Lincoln to consider...I know

they're establishments that have been around a long time but I'd like for some of the owners to consider making their clubs more accessible for disabled people. In the case of The Night Before, I have a hard time getting into their bathroom & I would like permission from the owner to go to his other establishment to use his bathroom. And, in the case of the Foxy Lady, I'd like for Jerry, even though he's legally accessible, to put a ramp in front of the building because it is difficult for me, as a patron & a human being, to get into his establishment even though he has treated me fairly well. I have to go in the back. So, I've brought some different issues to the table. I certainly don't want anybody to grope anybody in those clubs, or to do anything out of line or anything else but you can't legislate morality. People do have the right to make a living & do have the right to choose what they want to do. Thanks.

Ms. Seng: Thank you for coming.

Clerk: Anyone else wish to come forward to speak in opposition to Item #4?

Richard Halvorsen, 6311 Inverness Rd.: I suppose I got two points. One, they did make the comment on some of these college bars on football Saturdays, waitresses get groped there. I've never seen anybody asked to leave. I never seen the cops called. I've never seen any of the patrons arrested. I guess according to this ordinance, the waitress could be ticketed too. I guess the second thing is the Director of Health comes up here & tries to allude there's a link between nudity & violence against women without having any backup statistics, you know. I guess that's my main objection. If he's going to make that allegation, I would like him to back it up with a scientific study rather than make a blanket allegation that there is a link between nudity & violence against women.

Jeff Fortenberry, Council Member: Mister Halvorsen, would you mind answering a question?

Mr. Halvorsen: Sure.

Mr. Fortenberry: You come up here week after week, rightfully so, addressing issues of community concern. You're very interested in City planning issues, beautification issues. I've heard you talk to those things. Would you have a problem if one of these establishments appeared on Old Cheney Rd.? They began to appear up & down Hwy. 77, Hwy. 2, & on & on?

Mr. Halvorsen: I think, like somebody pointed out, the signage might be a problem yeah. The signage, like I say with...

Mr. Fortenberry: But other than that, they have no community impacts, they're good establishments to welcome into any neighborhood?

Mr. Halvorsen: Like somebody else pointed out, people have the right to make the choice. Again, I might object to the signage & the advertisement of the deal but &, again, if there were things happening in the parking lot, you know, litter, violence, whatever, I'd object to that too. But I believe, like I say, (inaudible) I don't think that'd happen because I don't believe there is that much community support for these establishments. I think there's only "X" number, you know, a few number that, you know...in practicality, I don't think there will be a whole slew of them opening up along any, you know...so I guess (inaudible) speaking in a practical matter, I don't think there's that much of a market to have...

Mr. Fortenberry: But that would worry you?

Mr. Halvorsen: If there was that much of a market, I suppose it might worry me a little bit, yeah.

Ron Smith, Hickman, Nebraska: I'm an entrepreneur & I want to speak from the standpoint of how this may impact us from an economical standpoint. And also from the standpoint of the types of citizens that we do have in our city & giving our citizens some credit for not being like Omaha or some other places & being careful not driving them into those types of situations where if there's no place that has controls over these types of activities that we can't employ some of our enforcement. Then you're going to have these activities happening in the right setting. In the scope of my business, sometimes in utilizing tools in the community that's successful to me, one day you may see me down on the railroad tracks talking to the bums because maybe that's where I need to get my information. Some days you may see me down at the Capitol because that's where I need to do my job. Sometimes you may see me in Washington. Sometimes I host clients that are international that come from different cultures. I can take them to the Grove. I can take them to The Night Before. And I can even take them to the Foxy Lady. And feel like if that's where I need to do my business because that's conducive for at the time of my business or after my business, you know, to socialize & to do it for those types of individuals. If I'm hosting ladies & the...what do you call those California guys that strip? Whatever. The hunks or whatever, you know, I can take these ladies into this environment & feel safe that I'm taking them into a well established situation where they're not going to get robbed in the parking lot, they're not going to get groped by the customers or the bouncers, people aren't just running crazy. And I think that says a lot for our City as a whole. And then I hear the questions of signs. Okay. And we can do something about that. There's

a ramification for that. The thing about touching, nudity, you know, in this instance, let's not reinvent the wheel. We do have laws on the books that's been on the books for some time. A lot of these places have been around 15, 20 yrs. with no real problems. So, if we got a problem, let's address the problem. Let's not kill or go into overkill mode. Now, I understand the morality situation, well, that's not for this platform. This is not the place for that. And I think that we all may be in agreement on that even though we do have moral convictions & commitment to morality. I just wanted to say in terms of jobs lost/gained, you know, we have to look more than just at these people that own these clubs & the people that work there, you know. I may not be the only business person in the City or around the state that come here to do business. You know, I don't know what the convention centers do but because sometimes I'm in these places, you know, I see officials from other states that I recognize & I don't see them in any distress or being embarrassed, you know, whereas if they had to go sneak in some place to camaraderie or have camaraderie with some of their friends. So, I would strongly urge us to look at our situation here. We've got laws on the books now that may just need to be amended to deal with any current problems that we're having. You know, consider a grandfather clause for the existing places, deal with anything new. If the concern is if it's going to grow here, here, here & here, we can control that with zoning, you know. Again, I'm asking for consideration from the business community of those who utilize these spaces as tools. And for those people that work hard on the roofs everyday, that want to go & have a beer with their buddies & laugh & just socialize. The women that work hard every day & claim that men gets all the opportunity to go & socialize & have these types of events & they can go out. And then as far as the workers, you know, these young ladies, young men work hard. If I had to put some kind of tape on my body everyday, you know, pretty soon I'm going to be hairless & sore. You know, that's a fact. You know, again, because of the nature of this industry & because what has been demonstrated in the past, I think the track record is set firm that this is not a threat to our community as some may have us believe. I don't think there's nothing wrong with a woman feeding her baby because that's a mother's right & that's a baby's need. I have nothing wrong...I see nothing wrong with that. Let's not reinvent the wheel. Let's amend our situations to (inaudible) as we need. But we really stand to get into a morality fight that's going to cost us more money & time than this whole thing, being blown out of proportion, may cause us. So, I'll ask for your consideration, you know, for...to give the people, you know, a chance.

Ms. Seng: Thank you for coming.

Mike Morosin, 2055 "S" St.: I remember 30 yrs. ago when this came up. And, at that time, I was a bouncer at the Royal Grove & my former wife was a dancer & that was when pasties & "G"-strings were the appearance for the day. There was no problem with touching with the women. We regulated that pretty good. We did remove people out there. But the dancing & my working there provided for our children to eat. It provided for my former wife who is now a psychologist, is very proud of what she did in her past & has no problem with it. And I think we're

skirting on the issues of legislating somebody's constitutional rights for what they want to do. And I think we need to be very careful with this. It's a freedom of choice. Many women use this to support their families. And I think we need to really take a look at this. It's a choice to go in these type of clubs & if people make that choice, then they should be allowed to make that choice. Now, I understand, you know, with what this & have addressed the issues in the past 30 yrs. ago when I worked out there so please take time & take a look at this & make sure we do the right thing.

Judy Osburn, 2229 S. 8th: As I understand it, the real problem here is the touching. It's because it's a juice bar. Am I right? They're allowed to have touching but if they had a liq...I'm wrong?

Mr. Fortenberry: Well, I...that's one of the issues, yes, but...

Ms. Osburn: One of the issues, well...

Mr. Fortenberry: The ordinance is establishment-blind so to speak 'cause it requires covering.

Ms. Osburn: Okay. Well, I drove by Baby Dolls this morning & I notice their sign & I was offended too. It...here's what it said, it was a portable sign, "You know it's good, when it leaves you with wood." And I'm really not sure what that means, but it doesn't sound good to me. And then their more permanent sign says, "Lincoln's Breast Club". And, frankly, you know I'm on the fence. I don't care one way or the other but I think, as I understood from the paper, that it was mostly the touching that has everybody upset. So, you might look at an ordinance...ordinance that says you can look but you can't lick. That's all...that's all I have to say.

Sharon Nicholson, no address given: I'm just talking as a person that use to be an entertainer & have danced at most of the clubs here in Lincoln. I wish when I was dancing, Mataya's Baby Dolls would have been open 'cause they have a significant amount of bouncers as the other clubs do not. The girls get away with more in the other clubs because their bouncers are not paying attention to what the girls are doing. At Mataya's, the girls are being watched on video cameras. The guys have all mic's in their ears. They know exactly what is going on when it's going on, how it's going on & the girls are reprimanded immediately. All the other bars in town, as I know, have one, maybe two, bouncers & 12 girls. Some have a little more. I don't know how one many can keep track of all those women & what all those women are doing. And those are bars that have alcohol in them. And I know, being an ex-dancer, some girls do a lot of showing for some extra money. At Mataya's, you don't have to worry about that because the girls are canned on the spot & the guys are taken out. And that's just my opinion. Any questions?

Ms. Seng: Thank you for coming.

Dan Clinchard, no address given: Nick of time I guess. Almost hoped you'd be done with it before I got here 'cause it's almost embarrassing, like what an earlier speaker said, a lot of people who would be in opposition of this probably aren't likely to show up to say so.

Ms. Seng: Will you give your name?

Mr. Clinchard: Oh, I'm sorry, Dan Clinchard, C-l-i-n-c-h-a-r-d. I hope this doesn't impact my future credibility if I show up to talk about

other things. But, anyway, I'd be generally in favor of a more naturalistic kind of approaches to just our sort of general culture, you know, clothing optional places such like that. I think appreciation of the human form isn't anything that we should be ashamed of & I think it's kind of a shame that places like this they're one of the few places where people can go appreciate that. I don't know if any of you watch "Ally McBeal"? Did you notice the series...the episode last week, it was a mud wrestling establishment that was coming under fire & there were various arguments such as testimony from a male dancer from another establishment. I noticed just a couple columns away from the ad. for this place was the Hollywood Hot Bodies dancing down at the Sidetrack the past weekend. I guess men weren't going to be allowed it until later in the evening. But these kinds of things aren't things that we should be ashamed of. The winning argument in the "Ally McBeal" case was that, you know, men have these tendencies, these drives, these urges, these appreciations of visual form, that's what keeps our race going, that's what keeps our species alive. We have a sex drive. And some places like this, despite sort of the mainstream cultures attempt to try to make us feel guilty about that for some reason. These are some of the few places where men can gather & appreciate that together & realize that it's not that bad. And the dancers help with that sense as well. And so, I think you already heard testimony about community standards. I don't know if people have mentioned advertising & the movies...yeah, movies have been mentioned & lots of things where this is accepted to watch but, for some reason, somebody seems to think we should draw the line (inaudible) some of us don't think it needs to be drawn. As long as it's safe & not a...I think a few years ago, the health code made it so that we can't actually kiss a dancer. So, as a health thing, so as long as it's not, in any way, unhealthy in that sense, I don't see what the opposition should be. Yeah, this wasn't a well prepared statement but I guess...

Ms. Seng: Thank you...thank you for coming, for being brave enough to come too.

Clerk: Anyone else in opposition? [No one came forward.] Okay. Anything further from Council?

Ms. Seng: Dana & John. You might review what we sort of informally talked about in the morning Pre-Council about separating the legislation.

Mr. Roper: I think there was some discussion about separating this ordinance into two ordinances. One prohibiting nudity. A second prohibiting contact between patrons & entertainers & that we would bring both of those back to you for your review.

Ms. Seng: Okay. Any discussion here on that? What will be appropriate for us to do? To delay this vote for...until you bring the other back?

Mr. Roper: I think if you put this on Pending, we should be back to you in a couple of weeks with the redrafted ordinances.

Ms. Seng: Jeff.

Mr. Fortenberry: I'd like to ask John McQuinn some questions as well. I think it would be helpful for the audience at home, for the community who's watching, who's interested in this issue, to...for us to review some of the discussion that we had this morning regarding precedent for this, regarding other communities in the...Nebraska that have outlawed this & you gave that testimony this morning. If you'd like to follow up on that.

I did. I'm John McQuinn, Chief City Prosecutor for the City of Lincoln. The genesis for banning of public nudity came from the United States Supreme Court in 1991 which upheld an Indiana State Statute banning public nudity which is almost verbatim with the ordinance before you, the public nudity section. In 1993, the 8th Circuit Court of Appeals upheld a similar public nudity statute out of Iowa. There have been a number of attempts around Nebraska which have been successful in banning public nudity. Fremont has one. Omaha has one that deals specifically with liquor establishments. Are there two that are readily available which is the framework that we used in drafting the public nudity section of this ordinance.

Mr. Fortenberry: The reason...we've heard plenty of testimony about personal choice & defining limits there & the appropriateness for a governmental body such as this to do that but the Court has upheld that it is appropriate for a community, as a whole, to make a choice in this regard primarily because of secondary effects & it recognizes those effects.

Mr. McQuinn: That's correct.

Ms. Seng: Any more discussion?

Ms. Johnson: You want to wait till later to...

Ms. Seng: We might as well do it while it's here...

Ms. Johnson: ...put this on delay.

Ms. Seng: ...for our discussion.

Ms. Johnson: Then I put a motion that we put this on...is that what you're asking?

Ms. Seng: If you want to?

Ms. Johnson: Put it on delay for a couple of weeks till you get everything put together?

Ms. Seng: Okay, is there a second to that & then Jerry wants to speak. Is there a second to a delay for two weeks.

Ms. McRoy: Second.

Ms. Seng: Okay, Annette gave a second.

Clerk: Thank you.

Ms. Seng: Jerry.

Jerry Shoecraft, Council Member: Um, I guess just a comment both to Dana & Mr. McQuinn. Either this meeting's been sugarcoated so well as to the community & everybody to be...believed that nothing is going wrong, which has sparked this proposed ordinance, whether we address Johnson's amendment which brings the juice clubs in conformance with anyone who has a liquor license or we go the route that the nudity ordinance has been co-sponsored by some of my colleagues or I've been misinformed about (inaudible) what has been going on. Now, we've been talking about. And I made the comments to my colleagues earlier should or can government

legislate morality. I may be of the opinion that government can legislate morality. We do it all the time. But you may disagree with me & that's...& that, certainly, does occur. But you can't separate religion & morality from politics. It's impossible. It's absolutely impossible. You see Congressmen & Senators of the United States come on the floor & cite something they took from the Bible, uh, when making a point or addressing some legislation or we do it on a local body. But the question is whether we go the route of the amendment which brings them in conformance with everybody else or go a different route. I think my comment earlier this morning was are we going to solve a problem or are we going to create more problems? And to me, this may be a community issue that a lot of people want to talk about or have a...or have a concern about but, for one reason or another, are not here today to testify in support of it. We have received a lot of phone calls in regards to people saying ban nudity, don't ban nudity. And to me, I think this is an issue that should be a possible...even a referendum on the ballot, you know. Maybe let the community decide then, you know, if every...you know, let the community decide. I've heard comments about community effort, moral fiber, community standards, & a community with a conscience. You know & politicians for years have been scared to death to address this issue. And, finally, this bod...this body, whether we agree or disagree with proposed legislation, finally addressing it & I commend us for doing it. But politicians, for years, have been scared to address this issue & so I'm happy that we are address it & this week I'll spend time listening to both sides before we all form an opinion on which route we go & we have separated legislation out between, in a sense, prostitution or touching & nudity. But maybe it should be a ballot issue, you know. And that's some food for thought. But I just wanted to make those comments. But is there...can you cite any examples where we do legislate morality?

Mr. Roper: That's hard to...to say in the...well, let me give you an example. The City of Lincoln used to have an ordinance which banned the sale of alcohol on Sunday. Now, someone might say that was legislating morality because it was simply to try & encourage people to go to church. Others might say that was a health ordinance because it was a prohibition from drinking (inaudible) you could make the link to alcoholism. Others might say it was a public safety issue. That we would have fewer drunks, fewer drunk drivers on the road. I could make an argument that it was a municipal manpower legislation, that it gave Police officers a day off. Things were quieter on Sunday when we didn't have alcohol. It is, perhaps, a combination of all of those. We legislate against spitting on the sidewalk, public indecency, cock fighting. Is that morality or is that something else? And I suppose a little bit of morality creeps into everything that's in the Code Book & to more or less extent. And I think it's an individual decision & belief &, as you say, reasonable people can differ.

Mr. Shoecraft: Thank you.

Ms. Seng: Jeff?

Mr. Fortenberry: Well, I can't help myself to just jump into this discussion because I think it's a false, nothing against your question, alright, I understand what you're referring...but I think it's a false

distinction to say that government can't legislate morality. All law is based in some choice about what is right & what is wrong & that's what morality is, a good choice. Now, we have debates, healthy debates, in a community about where that line is, whether government is excessively imposing a moral view or is imposing a moral view that ordinary & good. We balance those things in our judgement as elected officials. I think drug use, to me, is a clear one. I mean you can lock yourself in a basement & do drugs & it's not going to harm anybody, you can bounce off the wall but it's going to harm yourself & we've determined as a society that that's wrong. Is that a moral choice? I think so. And just recently on a local level, we decided not to serve...allow the service of alcohol in Pioneers Park even when it was demonstrated that there was no real public safety hazard because we've made a determination, a judgement call, that that was a family park & that wasn't the best interest of our community. So, I do think we have...this is another case where we have to address this issue as a community. What's in the best interest. And the question comes down to do we believe this is good for Lincoln or not.

Ms. Seng: Jon.

Mr. Camp: This is sure a difficult issue. We've been discussing here legislating morality & I sure have my own opinions on a number of these issues. I'm looking forward to see the bifurcation of the proposal & I hope that we will leave open the opportunity assuming we take that step to have further public input because I think that's important. I guess I look at government & the role of government as one that should deal with the health & safety of people. I guess, Jeff, I would make a comment on the Pioneer Park that I felt there was a safety issue there as far as people drinking & driving after the concerts & that was part of my decision on that particular vote. I don't know, you know, I do have distinct views but I tend to believe that we may need to analyze some of these from a health & safety standpoint. Legislating morality, with the example of doing drugs, I think that's more a health & safety issue if I were looking at. I think that activities that do cause harm, you know, & disturbances then we need to be looking at that. I'm encouraged that the Legal Department's going to look at the proper way to address this. And I'm not really, at this point, taking any position on the subject matter. But I appreciate the public's input. I really do want to hear from them. Jerry, you propose an interesting approach that maybe we put it to referendum. I don't know what to do.

Ms. Seng: Anything else?

Mr. Camp: Thank you.

Ms. Seng: Just a minute. Anything else? Okay, go ahead.

Mr. Roper: I just wanted to say that one of the reasons that we could even consider such an ordinance is because the United States Supreme Court has recognized the secondary effects of these establishment & because of that, it isn't simply morality but rather the secondary effects of these establishments...

Mr. Camp: Looking at the health & safety...?

Mr. Roper: Right, right.

Mr. Camp: That's what I want to clarify. Thank you, Dana.

Ms. Seng: Jonathan, did you want to say something?

Jonathan Cook, Council Member: Yes. Well, I have to go back through the ruling of the Supreme Court. I'm not certain that they recognize the health & safety effects but rather deferred to legislative bodies in determining those effects. There is a difference. I just want to know about the public hearing situation if we pr...if we have a new...newly drawn up ordinance regarding the prostitution element, will we need to have a public hearing on that? Is it enough different from what we are currently looking at?

Mr. Roper: I think we would want to have a new hearing.

Mr. Cook: Okay.

Mr. Roper: I sus...I...we'll have to see how...

Ms. Seng: Cindy, is that part of your motion?

Ms. Johnson: Yeah, well, I assumed that's what we were going to do. But I...

Mr. Cook: Okay. And also on the modified nudity ordinance, will we have public hearing on that as well?

Ms. Seng: Public on both.

Ms. Johnson: Whatever's brought forward, I would assume we'd have...

Mr. Cook: Maybe we can have hearing on the same day just even though the issues are separated. That seems reasonable.

Ms. Seng: I believe that's what was in her motion to delay for two weeks & you would have the other...you would have it split out by then, Dana, is that correct?

Mr. Roper: Yes.

Ms. Seng: Thank you.

Mr. Fortenberry: Carefully delineate what you're doing. for the community who's watching this discussion, again please.

Mr. Roper: We would be drafting two ordinances. One which would prohibit nudity in public places. It would define what nudity would consist of & it would define public places. It would provide for a very limited number of exceptions such as breast feeding, young children & theater/art centers which is an exception under the first amendment to the Constitution. The second thing that we would be doing is drafting an ordinance which would attempt to prohibit contact between performers & patrons of non-alcoholic businesses. Right now, there can be no contact between a patron of a liquor establishment & an entertainer & that's a City ordinance that you...that was passed under the liquor laws. And I guess that would be another example of legislating morality depending on how you want to look at it. But that is what we're going to attempt to do. Our challenge is to right the contact ordinance so that it is narrow enough that it prohibits conduct sought & not brings in some other type of contact such as massages, dance lessons, something that isn't what we're seeking to regulate.

Ms. Seng: Okay.

Mr. Fortenberry: Can you delineate some of the secondary effects? John, perhaps you can help.

Mr. Roper: Prostitution, assaultive behavior, & other criminal behavior, I think are some of the one's that have been recognized by the courts.

Mr. Fortenberry: Can you extend that further toward impacts on community development, impacts upon neighborhoods, neighborhood resources?

Mr. Roper: I'm not sure I could site you a case that says that. That may well be the case, however.

Mr. McQuinn: I concur with...with what Dana said. The items that Dana had listed are specifically the ones that are recurring in the cases. I do think that it is possible for the City Council to take into consideration the impact that it's activity or lack thereof would have on community development.

Ms. Seng: I believe Annette had a question.

Ms. McRoy: Um, Dana, as you go back & craft the new ordinances & you refer to them as public places that's what it would effect, well, could someone take a establishment & turn it into a private club & then there would be a loophole? So, I guess as we craft these ordinances, that we don't leave loopholes in there so that way we would have no control over...we'd have less control next week over...than what we do today because if we just, you know, say public places then they turn it into a private club, members only & the cover charge is, you know, a hundred dollars, members only & everybody pays that then that leaves us no control & then we have...you know what I'm saying? So, I guess as we, you know, look at the language we use, that we delineate exactly how we, you know, there's no loopholes in there because I'd rather deal with it today than a year from now when some, you know, smart aleck figures that out that we left that loophole in there.

Mr. Roper: Good suggestion. I'm not sure it'll take a year but we'll do what we can.

Ms. McRoy: Well, you know, I figured it out in five minutes so, you know, I assume somebody else will be faster.

Ms. Seng: Any other comments? Okay. Thank you. Paul, we have a motion to delay for 2 weeks...

Clerk: Two weeks.

Ms. Seng: With public hearing.

Clerk: With public hearing, that's correct. Okay. Fortenberry?

Mr. Fortenberry: Yes.

Clerk: Johnson?

Ms. Johnson: Yes.

Clerk: McRoy?

Ms. McRoy: Yes.

Clerk: Seng?

Ms. Seng: Yes.

Clerk: Shoecraft?

Ms. Seng: He's gone right now.

Clerk: He's gone. Okay. Camp?

Mr. Camp: Yes.

Clerk: Cook?

Mr. Cook: Yes.

Clerk: Motion carried six to zero.

Mr. Camp: Madame Chair, if I could just clarification, does there need to be any special procedure to allow that second ordinance to be allowed or is that going to be considered part of this 1st & 2nd Reading so that they're on the same time path?

Ms. Seng: You'll have to work that out with Paul.

Mr. Camp: Yeah, thank you.

Clerk: Yeah, we'll fix it.

This matter was taken under advisement.

**** END OF VERBATIM TRANSCRIPT ****

AMENDING SEC. 10.06.120 OF THE LMC TO PROVIDE FOR A FINE FOR PARKING OF TRUCKS OR OTHER OVERSIZED VEHICLES ON STREETS ADJACENT TO RESIDENTIALLY ZONED PROPERTY - Annette McRoy, Council Member: I just want to tell the audience at home the reason why I brought this forward & introduced it & sponsored it is because this is already on the books. A concern of a constituent of mine was that we only had a five dollar fine. If you read the ordinance, all we're doing is increasing the fine amount. We're not creating a new law on the books but we're just putting some more teeth in existing ordinance because it was \$5, now it moves to thirty dollars. And the reason behind it is because on some of our older neighborhoods, established neighborhoods, we have narrow streets. If you park a truck over 21' there overnight, it makes it extremely difficult for residents cars & buses to get down those streets to navigate safely. And in talking with a citizen over the last several months that, you know, he would call & Police would come out & write tickets but a \$5 fine doesn't mean anything. He continually to keep breaking the law. So we talked about it that we put more teeth into it. So that's the whole point. I'm not trying to stop truckers from unloading their load or people who are moving household goods. I think if we use a little common sense that says that you can still, you know, trucks can use the residential streets. We're talking about parking there consistently overnight. So, I guess before we have public testimony that was my intent was to alleviate some of the traffic congestion on our narrow streets where people could leave those vehicles at their place of employment as opposed to bringing them home, parking them & depriving their neighbors of a residential street they paid for. So, that's my intent. I just thought I'd explain it.

Bud Cuca, Pres. of Nebraska Trucking Assoc., 1701 K St.: I'm here not necessarily in opposition to your ordinance change, Councilwoman McRoy, but rather just to say that some of the sensitivities that the trucking industry has relative to these sorts of ordinance changes. Truckers are a unique breed of individual in a lot of cases. There are people out there who are owner operators. They own their truck. They lease onto a trucking company. They might lease onto Crete Carrier or Salem Trucking or some other trucking company. That is there mode of transportation. That's their car. They're out on the road for two weeks then they're back home for a couple of days & they've gotta put their truck some place. It's very...not only inconvenient, almost debilitating to them to have to park that at a truck stop & then try to find somebody to come pick them up & take it home. I understand fully what you're

trying to get at & I don't necessarily disagree with you that there's got to be some more teeth in the ordinance. What I might suggest to you is a drafting proposition is to look at some other...or another section of the ordinance to limit that fine to streets that are of a certain width. Frankly, truckers shouldn't be parking on streets that are that narrow that it presents a safety hazard or problem. And I think, by & large, most drivers are very, very safety conscious & wouldn't disagree with what you're saying. I think that fine tends to be a little punitive & literally as it's read, I do have some concern about the household goods moving component to it. Somebody that's moving a house & you can't get that tractor or trailer entirely loaded in one day, what do you do with the trailer overnight. I will also tell you that I don't have any sympathy for the trucker that parks both his tractor & his trailer in front of his home. There's no excuse for that. They can drop the trailer off at a truck stop or some place else & drive that tractor home. So, I guess I don't disagree. We don't disagree with what you're saying. I'm a little concerned about the amount of that fine & I think it could be examined in terms of parking it on a street that is a certain width. A narrow width. And I would encourage you to look at that. You know, part of our concern is as much the message that's sent. Truckers...drivers are very proud of what they do. They're very proud of their vehicles. And in someone sending a message to them, that what you do isn't valuable & we want you out of our neighborhood & I don't think that's what you're trying to say. I think it's a safety issue which I agree with you with. Which is why I would encourage you to explore the notion of assessing that fine or a street of a certain width. So, with that, I will take any questions which you might have. Thank you very much.

Cindy Johnson, Council Member: Dana, I have a question for you. What exactly is "oversized"?

Dana Roper, City Attorney: I would need to go get the Code. I can't remember the...in the Code we have a definition of the size of truck & it seems to me it's 19' but I need to run in the other room & get the Code & tell you that for sure. It's set out in the ordinance & I'll...give me a moment & I'll be able to tell you.

Ken Foster, 5001 W. Elba: I've lived in this house for 20 yrs. & then I come out the other day & I've never seen before, I think this has to do with this new ordinance. This says that vehicles be moved off of my block. I live on this corner. And due to the fact that this ordinance right here, I've got to take my vehicle out of sight & then I've got to go out at night & check on my vehicle & make sure they're not tearing it up. That causes them to call the Police out & come out & now I'm a pervert 'cause I'm out here walking the street watching for my vehicle. I move that vehicle every day. So, I take it back on my block again, two days ago, I get a \$5 ticket. It's been moved, been halfway across Lincoln & back but here's the ticket & here's the backing for it right there, there's two of them. And the vehicle was moved. It's suppose to be in accordance with our Lincoln law but it doesn't do it. I can't understand why I was fined when I went halfway across Lincoln. How can you say it wasn't moved? I have a guy out there that will call on me every time that my vehicle sits more than 12 hrs., he'll call the Police on me. He lives

dead across the street. I can't park that vehicle over there because I know what'll happen if I do. So, I have to take it out of sight & around off of that block somewhere. I think this is bad ordinance. It shouldn't even be on the books because it causes me to do things that the Police'll pick me up for. It causes other people to be able to do damage to my vehicle that wouldn't ordinarily be done if it was sitting in front of my house where I live.

Jerry Shoecraft, Council Member: Is your vehic...obviously, you're vehicle is operable.

Mr. Foster: Yes, it is. I have three vehicles.

Mr. Shoecraft: Properly licensed?

Mr. Foster: Properly licensed. It's got everything that your law requires for this City.

Mr. Shoecraft: But you're being told to move your vehicle. Normally, when they do that, it's because of...what is it, because it hasn't moved in 24 hrs.?

Mr. Foster: No, because somebody calls them. That's all (inaudible) because I've called the Police & checked on it. Somebody calls in & said this vehicle hasn't moved, they'll come out & check it & ticket you. Mark a little circle around your tire & then mark on your tires. I moved that vehicle 8' back & then that's when the other ticket come in. You can't fight that ordinance. It's on the same block. That's what the Police told me. It's got to move off of the block. In other words, around the corner where somebody can do what they want. I can block somebody else. I can cause somebody else a problem & not really knowing what you're doing. It's a bad ordinance. This ordinance should be taken off the book. I can see moving your vehicle & the ordinance used to be there. Move that vehicle a few feet. Get it, you know...every vehicle I had has been licensed, it's got insurance, it's got everything it needs. But I have to sit & fight this every day. Why do I have to do this?

Ms. McRoy: Um, the ordinance that's before us is parking oversize vehicles on residential streets.

Mr. Foster: This is a pickup truck. Are they talking about an 8' truck or a 20' truck?

Ms. McRoy: We're talking about oversize trucks. So, an 8' truck, I do not think meets the definition of oversized vehicles.

Mr. Foster: I'll go along with that. I don't think it's oversized. But the thing I can't (inaudible) this would come under the same ordinance, more or less.

Ms. McRoy: I think we're talking about two different ordinances.

Mr. Foster: I was told to come to this meeting (inaudible) 'cause I was up in the Mayor's Office.

Ms. McRoy: Can we see that yellow piece of paper, please? [Mr. Foster gave the paper to Ms. McRoy.] This is the 24 hr. parking violation which is not what we're considering today but thank you.

This matter was taken under advisement.

CHANGE OF ZONE 3182 - APP. OF THE B & J PARTNERSHIP & THE PLANNING DIRECTOR FOR
A CHANGE FROM R-2 RESIDENTIAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS & FROM

R-2 RESIDENTIAL TO P PUBLIC ON PROPERTY GENERALLY LOCATED AT S. CODDINGTON AVE. & W. "A" ST. (IN CONNECTION W/00-17, 00R-27);

DECLARING APPROX. 0.9 ACRES OF PROPERTY GENERALLY LOCATED AT S. CODDINGTON AVE. & W. "A" ST. AS SURPLUS & AUTHORIZING THE SALE THEREOF. (IN CONNECTION W/00-16, 00R-27);

USE PERMIT 118 - APP. OF B & J PARTNERSHIP TO DEVELOP 89,700 SQ. FT. OF COMMERCIAL SPACE & A REDUCTION OF THE FRONT YARD SETBACK ON PROPERTY GENERALLY LOCATED AT S. CODDINGTON AVE. & W. "A" ST. (IN CONNECTION W/00-16, 00-17) - Mark Hunzeker, 530 S. 13th St., Suite B, representing B & J Partnership: This is a project that's been anticipated for many, many years. This is corner of W. "A" & Coddington Avenue. The property...at least most of this property has been zoned for commercial development as long as I can recall. At least 20 yrs., that I know of. It has been anticipated that this would be developed for a neighborhood shopping center for a very long time. And that's what we're here for. We're proposing development of a grocery store & other retail uses together with three pad sites, a totaling of approx. 90,000 sq. ft., 89,700 sq. ft. The project involves the acquisition of a certain strip of park land at the south end of the property which will be paid for by the developer in the form of doing a lot of work in the park. We intend to move a lot of dirt, create a nice ballfield, create a detention cell in the park that will be able to be filled & used as a skating rink in the winter time, creating bike paths & walking paths across the park to give access to neighborhood residents, to the school & creating additional parking & a recycling center on the site which we think, overall, is a tremendous benefit to the neighborhood in addition to the long anticipated grocery store & other commercial uses. We've had a few bumps along the way in terms of working out street improvement agreements. We do have an agreement with the Public Works Dept. as to exactly what the responsibility of this developer is. It has not, at least as far as I know, been completely reduced to writing but I think that between today & a week from today when you vote on this, we will have something in written form for execution by both the City & this developer. I'll put a copy of our site plan, is this still on? Okay. The site plan involves...this is W. "A" St. & Coddington, a grocery store & other retail sites, pad sites. We have right in/right out access on Coddington & a full access down here at Garfield which is where the strip of land is that we're acquiring from the Parks Dept. This strip along here is what we are acquiring from the Parks Dept. &, as you can see, it lines up with W. Garfield which is where Public Works really wanted us to take access. So, we are acquiring this strip, in part, at the request of the City to line up our access & to move a full access turning movement farther away from the corner of Coddington & "A". The park improvements will include a ball diamond as I mentioned. The bike paths which will run along the east side of our property & then cross the park down to Coddington. The detention cell which will serve as a skating rink down in this area. And additional walking & biking paths in this area. This is a fire station down in this corner. I'd try to answer any questions you may have...[break in tape]. Sometimes very vocally they're support for this project & if we have any other questions we can answer, we'd sure try.

Jeff Fortenberry, Council Member: What is your position on the topless dancing ordinance?

Mr. Hunzeker: No comment.

Mr. Fortenberry: It's a little bit refreshing to get back to the ordinary business of the Council.

Ms. Seng: Land use issues.

Mr. Fortenberry: There was quite a bit of discussion about water issues, as the retention system that's set up...

Mr. Hunzeker: Well, we have had concerns & there are concerns about water. And I'll try & point out where we are. As you get to the east end of this property, in particular, on "A" St., there are problems on both sides. We've had, particularly, some property owners in this area that are real concerned about water that comes down the ditch along "A" St. & we've got some undersized culverts that've been identified in this area & as I understand it, there's been some money identified that will go into improvement of those culverts. We will have some street improvements that may have some additional positive effects in both "A" St. & Coddington. But the primary water problems are up in this area. I think it's fairly accurate to say & J.D. Burt is here from Design Assocs. & Roger, I know, has had some work on this project, but I think it's fair to say that this project while it does not solve the problem, does at least marginally, improve the situation. And it certainly does not make it worse.

Jon Camp, Council Member: Mark, on the project, what is the...it's about .9 acres, as I recall, that would be involved in this property?

Mr. Hunzeker: Um, hm. From the Parks Dept. you mean.

Mr. Camp: Yes.

Mr. Hunzeker: Okay.

Mr. Camp: What is the consideration on both sides again for that exchange of property?

Mr. Hunzeker: To tell you the truth, Jon, I can't even tell you. I don't even know the number. All I know is that as far as the...what I've been told is that as far as the Parks Dept. is concerned, they have discussed with the City Real Estate people what they think the value of that strip of land is & we have given them estimates of what we think it's going to cost to do the improvements in the park & they are satisfied that they are getting at least as much value, probably more, in terms of those improvements & they've estimated the value if it were just a cash sale. So, Jim Morgan's here. He can better address that than I can.

Jim Morgan, Parks & Rec. Dept.: This is an unusual Real Estate transaction for the Parks Dept. because typically when we have a parcel of property, you get a fair market price for it & there's a cash transaction & the deal is done. On this one, we come out better than we would on a cash transaction & I say "we" meaning the people who live & use this park land. If I can show you on the map here, several important things happened. We do lose this strip of property on the very northern end of the park. The plan currently has a gravel parking lot on it that goes away & we acquire the usage of a paved parking area immediately adjacent to the park on the north end also usable by the shopping center. When you look at what the recreational values are that are added here, this entire park slopes from east to west. And the ball diamond that's there at some

place in the past, the City put a backstop on it & it's never been graded level, it slopes, more than any other...you could almost sled ride on it, it's that much of a slope. And we also have a small sidewalk that doesn't really meet the needs of the kids that walk through the park on their way down to Roper Elementary School. So, what we get out of this is a significant amount of grading work, sidewalk work, tree replacement, & the addition of ice skating for kids in the neighborhood. That's a dry pond. We close it up & flood it when we want to do ice skating during the winter months. The sidewalk serves the new playground that's been constructed at the park. And when we did the financial analysis of it, the value of the land versus what we believe the value of the improvements is about 50%. So, we are more than I think coming out good on this deal. And the numbers...the value of the land was appraised by the Real Estate Dept. & the estimates for the grading work, amount of cubic yards, installation of sidewalk & all that was done by my staff. So, I feel really confident that we're using City numbers. The neighborhood has reviewed the plan & agrees that it's about time we do some of the things that are out here. As opposed to taking a cash transaction with the money going to Advance Land Acquisition, we now achieve something that really benefits the neighborhood that we wouldn't be able to do under current funding for the Parks Dept.

Bill Hergott, President of W. "A" Neighborhood Assoc., 1816 SW 21st St.: And it's great to be here finally. There's a lot of history to this thing. I guess about 3 yrs. ago, we had Councilman Shoecraft offered to come out & listen to what we needed in our area. And this happened to be our number two item.

Mr. Shoecraft: I know.

Mr. Hergott: We're getting there. But, over the time, we came to you often & we were turned down, that other store owners that offered to go in there & didn't work out. But April 9th, Clay Smith of B & J Partnership came to us & offered to put a store in this area. And that night, we had 120 people at our meeting which is great. And this was a meeting for a positive thing instead of something negative like we've had you out in the past for. But we took this in & looked at what we had to offer on this park & what we get is such an improvement we can't go wrong on this thing. This is an improvement for the whole neighborhood. And people coming out there, if you know that corner, it's been sitting there for years. This is something the neighborhood's needed in a long time. Little history, more history on it, in July of this year, we had a little problem with it got set back. The neighborhood was a little worried that it wasn't going to happen. So, we contacted our Councilman Cook. And he took a great interest in it knowing the history that we had out there that he'd like to see it & he felt that it could happen. So, we went to work on it. We hit all the departments we could. We talked to Public Works. And when things were down, we got people back together & asked the developer & the City to get back together & do something for us here & see if we can work out a problem & we did. It turned out to be the greatest thing that could happen. In Sept. '99, the Mayor told us that he finally decided that he thought that this was a good project & he'd get behind with us on this. So, it came up. We had a few problems along the way.

Flooding was one of the problems & I believe Public Works has taken the time now to put those larger culverts in there. And we liked to work with those people, we don't want to leave anybody out of this. There's a way to solve all these problems & I think we've done it. So, we're asking that you look over this plan & definitely vote in favor of this. This is a long time coming out here & there's other things that need to be done. But this will help out that intersection if you've ever been out there & Councilman Shoecraft drove through there at one of their best times that it was in its prime. It's been passed over the years & 20 yrs., it's been a rural road out there. Nothing's ever been done out there. So, with the intersection being fixed, & all the stuff we have out there, it's going to be a great plan. And as far as we talked about, had meetings & meetings, about the park improvements, & you'll see if you've been out there, it's...we finally got a ball diamond that goes downhill instead of uphill or it'll be even level when they're done. And the neighborhood needs this. And we'd ask that you support this. It's a great project & we're finally happy to see it come.

Mr. Shoecraft: I have to chuckle a little bit because I remember 3 yrs. ago I went to your neighborhood meeting & I said stay in the City's face, stay in our face, stay in our face & it can happen. I use to bring it up at Director's Meetings all the time about the infrastructure & the needs out there. And you can see it happening but, you know, it took a little while but it happened & I'm happy for your neighborhood & I know there's some other issues that need to be addressed in that neighborhood. And then, Jonathan came on board & did a good job & took a good interest in representing his district in that area. And I commend you for that. And just happy that you got good representation out there & you finally are getting something. Not everything on that list you gave me three years ago but, you know...

Mr. Hergott: We made it long. We hope to get it. There's time...

Mr. Shoecraft: You'll get it eventually, just keep working at it. But a good neighborhood association though.

Mr. Hergott: Yeah, we appreciate your help & what you did & we definitely appreciate with Jonathan coming on board & we'll be back to see you no doubt on something else but we're going to soak this up for a while.

Jonathan Cook, Council Member: I just want to say thank you for all your efforts & sticking with this & planning the rallies & so on. I mean it was...those were really great efforts & it showed how much the neighborhood was behind this. It showed how much we all need to work together cooperatively to make this happen & I'm glad it's become a reality here.

Mr. Hergott: Yes, it was a positive rally by the way.

Mr. Cook: Yes.

Mr. Hergott: We knew the City could do this. They were with us. It took some time & a lot of things to work out & between the developer was always willing to come back & talked to us if there was a problem. And I think we had a good working relationship. Sometimes it got tied up but it all came out to work okay. So, I do appreciate your help.

Mr. Cook: Thank you for yours.

Ms. Seng: Thank you for coming.

Mr. Shoecraft: Commend the developer too. I meant to say that to the developer (inaudible) an outstanding job to, cooperation.

Deb Walker, 2040 W. Mulberry Ct.: I'm a member of W. "A" Assoc. as well. I just want to say that we are really for this store & hope that you guys will okay it also. I have three children that if you have ever been out there, you'll notice we don't have nothing. And this'll be a good employment for my children to start out with & they're pretty close to home. I'm kind of a protective mother. So, if you could okay this project, we're just so excited about it. Jonathan knows how excited we are 'cause we had that rally to get it going, to get things together & we started the wish list for Jerry there. And so now, after all these years of trying to get something out there, we just hope that you'll agree with us & come join us. Thank you.

Deb Vocasek, 1903 W. Mulberry Ct.: I'm a 20 yr. resident of this neighborhood & this is my first City Council meeting so this should tell you how important this is to me. We are really in favor of this store. We've been wanting it for many years. Like I said, I've been there 20 years. I've seen a new school come in, have been built for our kids to attend. And I guess I was hoping that the area would develop a little bit faster as I've seen the north & the south & the east all develop with plenty of stores & shopping to support their residential areas. So, I'm really excited to see this finally coming along & it can't move fast enough, I'll tell ya. But I do have to say that we have a really good working relationship with the developer. Normally people would fight maybe what's going in. He's been...the whole development is really coming along. He listens to the people. He has come out & talked to the residents in the area & said what do you want out this, what don't you want, you know, how can we make it look better, how can we make it serve you better. That was really nice & we support what he's doing. He's listening to what we want also. But we do need road improvements out there desperately. We feel like we're out in the County, that we're kind of the forgotten part of the City. So, I encourage you to come out & travel around in the area if you haven't been out there. Yes, we did have a peaceful rally & I think we got some heads to turn at that stage. But we just wanted them to know how important this is to us, the residents, who live here & that we'll be supporting the store. So, the only other thing I'd like to ask you is please consider a swimming pool in the next few years. That's all I have to say. Thank you.

This matter was taken under advisement.

CHANGE OF ZONE 3223 - AMENDING SEC. 27.07.080 OF THE LMC TO ALLOW FOR COUNTY ROAD RIGHT-OF-WAY TO BE INCLUDED IN LOT AREA UNDER CERTAIN CIRCUMSTANCES - Mike Dekalb, Planning Dept., came forward to answer questions.

This matter was taken under advisement.

CHANGE OF ZONE 3226 - APP. OF BRIAN D. CARSTENS & ASSOC. FOR A CHANGE FROM I-2 INDUSTRIAL PARK TO H-3 HWY. COMMERCIAL ON PROPERTY GENERALLY LOCATED AT APPROX. W. COMMERCE WAY & W. BOND ST., NEAR NW 12TH ST. - Brian Carstens, 5815 S. 58th St., Suite D, representing the applicant, came forward to answer questions.

This matter was taken under advisement.

SPECIAL PERMIT 1135C - APP. OF HUGH SIECK TO AMEND FLINT RIDGE 2ND C.U.P. TO ADD 10 DWELLING UNITS FRONTING ON PRIVATE ROADWAYS ON PROPERTY GENERALLY LOCATED AT S. 66TH ST. & SOUTH ST. (IN CONNECTION W/00R-24);

ACCEPTING & APPROVING THE PRE. PLAT OF FLINT RIDGE 2ND ADD. ON PROPERTY GENERALLY LOCATED AT S. 66TH ST. & SOUTH ST. (IN CONNECTION W/00R-23) - Tom Cajka, Ross Engineering, 650 J St., Suite 210, representing applicant: Just basically here to answer any questions. Earlier the preliminary plat had been approved by Planning Commission five to zero with some conditional amendments to it. Those we have complied with & have resubmitted to Planning Commission & all of the conditions...or to the Planning Department. All of those conditions have been met & approved by the Planning Department.

This matter was taken under advisement.

SPECIAL PERMIT 1715A - APP. OF DONNA M. CULWELL TO EXPAND THE PERMITTED USE OF A DESIGNATED LANDMARK FOR A TEA ROOM ON THE FIRST FLOOR OF YATES HOUSE ON PROPERTY GENERALLY LOCATED AT 16TH & G STS. - Steve Henrichsen, Planning Dept.: Filling in for Ed Zimmer. I did bring along some slides as Ed would have of the Yates House. But seeing how long your meeting has gone today, we decided to pass on those but would hear if you have any questions about this application.

Coleen Seng, Council Chair: This is a house we've previously...

Mr. Henrichsen: Previously seen. A wonderful house (inaudible).

Ms. Seng: This is to put a tea room on the first floor?

Mr. Henrichsen: Tea room on the first floor only.

This matter was taken under advisement.

WAIVING THE DESIGN STANDARD CONDITIONS TO ALLOW A DOUBLE FRONTAGE LOT IN THE RIDGE 24TH ADD. ADMIN. FINAL PLAT ON PROPERTY GENERALLY LOCATED BETWEEN BARBARA LN. & WINDING RIDGE RD. - Billy Joe Curricane(?), no address given: I'm land surveying. I was the one that made the application for the property owner & here to answer any questions.

This matter was taken under advisement.

ACCEPTING THE REPORT OF NEW & PENDING TORT CLAIMS AGAINST THE CITY & APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF JAN. 1 THROUGH 15, 2000 - From audience: It was my understanding that we were going to review a tort claim in reference to a property located at 1710 Garfield.

Coleen Seng, Council Chair: Would you give your name?

Gary Thompson. I'm representing the owner, Mark Silverstein, in reference to a claim that we presented before the City on that property.

Received a reply from James Faimon on Jan. 11th indicating that it was his opinion that the City of Lincoln would deny that claim & that it would be up for hearing today. If I've made a mistake in doing that...

Ms. Seng: Well, we don't...Dana, there is no listing of that is there?

Dana Roper, City Attorney: Not that I see.

Mr. Thompson: I've got a copy of the letter here from the attorney indicating that, please be advised the disposition of this claim will be reviewed by the Lincoln City Council at its regular meeting on Jan. 31, 2000.

Ms. Seng: It's not on the Agenda.

Clerk: What's the name again, sir, for the denial? Let's see here.

Ms. Seng: Say the name again, Paul.

Clerk: It has Millie Lester?

Mr. Thompson: That's a representative of my company. The owner of the property is a Mark Silverstein. The property's located at 1710 Garfield.

Clerk: I'll tell you, Dana, it's not on the claim form here for denial.

Mr. Thompson: What do we do next?

Ms. Seng: Dana, what do we do?

Mr. Roper: I think we're going to have to wait until it is before you.

Ms. Seng: Okay.

Mr. Thompson: How would one determine when that will happen?

Ms. Seng: Um, you will be notified is the best I could probably tell you. Right, Dana? Is that correct?

Mr. Roper: Right.

Ms. Seng: Well, let's hope that one's accurate then.

Clerk: Uh, they do have...okay, it's under Realty Center.

Mr. Thompson: That is correct.

Clerk: Five thousand, eight hundred, eighty-four dollars & fifty-two cents which was denied.

Ms. Seng: We do have that listed.

Clerk: Yes. It's under Realty Center.

Ms. Seng: And it's under denial?

Clerk: Yes.

Ms. Seng: So, do you want to tell us about this?

Mr. Thompson: Well, yes I do. I would like the City to reconsider their position on that. This was a claim that we presented before the City that occurred as a result of a sewer back up that we had. 1710 Garfield is a licensed tri-plex in the City of Lincoln, located about 50' north of the intersection of 17th & Garfield. And we had occasion to have a backup or a blockage backup into our basement & actually flood our lower level apartment. We thought it may have been a building problem at first. After our representative that, from Lincoln Sewer, he said no, it's not, it's actually a problem that is caused by the City sewer backing up into the basement. And I met a representative...that was about 7:15 in the morning. I went to location & met...got there at the same time that the City Wastewater System people were actually cleaning out the sewer. And they had gotten it cleaned out at the time but, in the process, we had about 3½" of sewage in our basement & got this card from them that indicated some brief instructions on how to file a claim against the City of Lincoln if I felt that we would want to pursue this & I did. And, in the meantime, I was contacted & met at location a Michael Holmquist from the City of Lincoln Health Dept. because he was interested in what had happened on the property based on the fact that we still had the units on the first floor & the second floor inhabited. And I also had a conversation & met on location the City representative, Jim Wilson & John Boise, who came into the picture when we were actually cleaning it out & remodeling it & that type of thing. The position of the City's Attorney was that number one, they didn't feel that the stoppage was a result or was a fault of the sewer itself. And I guess I'm not an authority on that. It seems to me that it was based on the fact that we have two properties located there, one at 1710 Garfield & one at 1700. Apparently the blockage occurred right before this main connects to the...or our line connects to the City main. So, we felt that it certainly wasn't a problem that we could've prevented. And we're asking that the City might reconsider their position on paying the claim.

Ms. Seng: Okay. What do you want to do on this? Like to hold this one piece over? Would someone move that piece of it?

Cindy Johnson, Council Member: I move that we remove...hold this over a week.

Clerk: One week. Realty Center.

Ms. Seng: And we would like to have some more information then come back on this, right?

Ms. Johnson: Right.

Mr. Thompson: Is there anything that I can provide the Council with at this point in time?

Ms. Seng: I don't think so. I think we need to have some material come from City Departments.

Mr. Thompson: One of the issues that was kind of secondary that was outlined in the letter from the City Attorney's Office was the timeliness that we filed our claim. Apparently, there's some time frame that a citizen has to report. We were not aware of that time frame & that may be ignorance on our part. But in the conversation that I had & the communication & the meetings that I had with the three different City representatives, nobody mentioned to me that there was a time frame.

Ms. Seng: Okay.

Mr. Thompson: That may be something the City wants to consider notifying the citizens I guess.

Ms. Seng: Okay, thank you.

Mr. Thompson: Very good, thank you.

Ms. Seng: Paul, let's vote on that one piece.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

This matter was taken under advisement.

APPROVING A N. 27TH ST. BUSINESS AREA FROM "O" ST. TO FAIR ST. & THE APPOINTMENT OF A BUSINESS IMPROVEMENT BOARD - Jan Gauger, 1404 N. 40th St.: I'm the owner of property at 850 N. 27th Street. I've been co-chair of the N. 27th St. Implementation Committee that's been working on various projects along N. 27th St. for the last 10 yrs., I think. What you have before you is the first step in establishing a Business Improvement Dist. for N. 27th Street. A five member board has agreed to serve on that. I think you have those names. If not, I'll try to recall them for you. We've had two meetings with property owners in the described area which was pretty well attended although we did have more homeowners to the first meeting than we had actually business property owners. Then there've been at least three other N. 27th St. meetings that were not specifically just concerning the B.I.D. but at which the forming of B.I.D. was extensively discussed so I think there has been quite a bit of communication regarding it.

Jeff Fortenberry, Council Member: I just want to commend you for all your work. I think it's obvious to the whole community that things are really progressing very well there & I hear wonderful comments about how excited people are & with specific mention of your involvement with the B.I.D. creation. I think that's a fantastic idea. I think you're the impetus behind this & recognizing that the ongoing maintenance of some special plantings & other projects there can be handled best by a voluntary district that assesses itself back. So, I just congratulate you on your work & really appreciate it.

Ms. Gauger: Well, we really appreciate the extent that the City has enabled us to do these things & feel that now we've had the advantage of the TIF money, now it's our responsibility now to make sure that it's maintained. And, to begin with, we're just talking about maintenance of plantings. But if we find that litter becomes a problem in the future that property owners are not taking care of that kind of a problem, we're ready to step up to the plate on that too. So, we do appreciate your support & cooperation.

Jonathan Cook, Council Member: I just want to ask a question about a special sign district &, actually, Mike Dekalb might be helpful in this

regard. I know I saw him walk him so I though I'd...can you just explain briefly...I know the Haymarket is what...is special sign district. Is this an appropriate thing for the N. 27th St. corridor to be looking at & how would they go about that if it is?

Mike Dekalb, Planning Dept.: I think it's certainly appropriate to be considered. There is a provision in the existing sign code where the businesses & landowners can create a special sign district overlay which can basically adjust all of the provisions that are within that defined area. We have one in existence, which is the Haymarket area, & they have defined within their particular area, for example, the sandwich boards are allowed, roof signs are allowed, certain types of signs are not allowed but certain are. So, it's specifically tailored to fit that circumstance & I think as far as N. 27th St. that would be...

Ms. Gauger: I don't think we've gotten quite that far yet, Jonathan, but we have talked about, I can't remember the term, Wynn, what are we talking about? [From Audience: Design standards.] Design Standards, thank you. We are talking about & do want to move forward on design standards & that may also come along with that.

Mr. Cook: Okay. I just wanted to suggest that & see...

Mr. Dekalb: (Inaudible) to implement those design standards.

Ms. Gauger: We had a new building that was built on N. 27th St. after the plan was developed but before we had design standards & it was kind of a shock. I mean it meets all the requirements but it's not really quite what we would've liked.

Mr. Cook: We're learning a lot from this process.

Ms. Gauger: Any other questions?

Jon Camp, Council Member: Jan, I just wanted to clarify. The five of you who are serving on this implementation board will then, at some point, if I'm not mistaken, have another board take over that would be a longer term? Is that correct?

Ms. Gauger: My understanding of it is that these five people would be the board & then we would contract with the City to do the actual contracting of that. We don't do that ourselves as a Board. That we only work with the City & the City does the bidding & Dana can probably answer this better than I can. But, after that process takes place, unless we change what the B.I.D. is planning to do, we're pretty much out of the picture.

Mr. Camp: Well, that was what I was just trying to look at as opposed to perhaps suggesting staggered terms or something with your longevity so you're really a 3 year...

Ms. Gauger: Dana, am I saying that right?

Dana Roper, City Attorney: I believe you are.

Ms. Gauger: When we started this, I thought there was some kind of ongoing responsibility but really there isn't unless we change what we ask the City to do for the district. Thank you very much for your support.

Ms. Seng: Thank you for everything you've done, all of you out at N. 27th.

This matter was taken under advisement.

**** 4:10 p.m. - Council took a break.**

4:25 p.m. - Council Reconvened. **

ORDINANCES - 3RD READING

APPROVING A LEASE AGRMT. BETWEEN THE CITY & PHANTOM, INC. FOR THE LEASE OF CITY OWNED PROPERTY FOR USE AS AN IMPOUND LOT FOR TOWED VEHICLES - PRIOR to reading:

SHOECRAFT Moved to reconsider Bill 00-6.

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CAMP Moved to amend Bill 00-6 to return it back to the 4 year.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CLERK Read an ordinance, introduced by Annette McRoy, accepting & approving a Lease Agrmt. between the City of Lincoln & Phantom, Inc. for the lease of City owned property for use as an impound lot for towed vehicles, the third time.

FINAL VOTE AS AMENDED: AYES: Camp, Cook, Johnson, McRoy, Seng, Shoecraft; NAYS: Fortenberry.

The ordinance, being numbered **17596**, is recorded in Ordinance Book 24, Page

APPROVING A TRANSFER OF APPROPRIATIONS WITHIN THE WATER CONSTRUCTION FUND OF \$360,000.00 FROM CAPITAL IMPROVEMENT PROJ. NO. 506220 (48" WATER MAIN FROM 77TH & VINE ST. TO 84TH TO SE RESERVOIR AT 84TH & YANKEE HILL RD.) TO CAPITAL IMPROVEMENT PROJ. NO. 701178 (16" WATER MAIN IN PINE LAKE RD. FROM 84TH TO 98TH STS.); & \$130,000.00 FROM CAPITAL IMPROVEMENT PROJ. NO. 701175 (WATER MAIN IN YANKEE HILL RD., FROM 20TH TO 14TH STS. & 1/4 MILE NORTH) TO CAPITAL IMPROVEMENT PROJ. NO. 506050 (SUBSIDIES) - CLERK read an ordinance, introduced by Jerry Shoecraft, approving the transfer of appropriations between certain capital improvement projects within the Water Construction Fund, the third time.

SHOECRAFT Moved to pass the ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **17599**, is recorded in Ordinance Book 24, Page

AMENDING CHAPTER 5.06 OF THE LMC TO INCREASE THE EXAMINATION FEE FOR A FIRST-CLASS & SECOND-CLASS ARBORIST'S CERTIFICATE FROM \$15.00 TO \$25.00 & TO INCREASE THE ANNUAL RENEWAL FEE FOR AN ARBORIST'S CERTIFICATE FROM \$4.00 TO \$10.00 - CLERK read an ordinance, introduced by Jerry Shoecraft, amending Chapter 5.06 of the LMC relating to Arborists by amending Sec. 5.06.060 to increase the examination fee for a first-class arborists's certificate from \$15.00 to \$25.00 & for a second-class arborist's certificate from \$15.00 to \$25.00; by amending Sec. 5.06.100 to increase the annual renewal fee for an arborist's certificate from \$4.00 to \$10.00; & repealing Secs. 5.06.060 & 5.06.100 of the LMC as hitherto existing, the third time.

SHOECRAFT Moved to pass the ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **17600**, is recorded in Ordinance Book 24, Page

CHANGE OF ZONE 3187 - AMENDING CHAPTER 27.69 OF THE LMC TO AMEND THE SIGN ORDINANCE TO REQUIRE 800' BETWEEN OFF-PREMISE SIGNS - CLERK read an ordinance amend Secs. 27.69.045, 27.69.047, 27.69.048, 27.69.049, 27.69.050, 27.69.070, & 27.69.075 of the LMC to require an 800' spacing between off premises signs; & repealing Secs. 27.69.045, 27.69.047, 27.69.048, 27.69.049, 27.69.050, 27.69.070, & 27.69.075 of the LMC as hitherto existing, the third time.

JOHNSON Moved to pass the ordinance as read.

Seconded by Shoecraft & **LOST** by the following vote: AYES: None; NAYS:: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft.

The ordinance, having **LOST**, was assigned File **#38-4325** & was placed on file in the Office of the City Clerk.

SPECIAL PERMITS, PRELIMINARY PLATS, USE PERMITS & ADMIN. FINAL PLATS

SPECIAL PERMIT 1135C - APP. OF HUGH SIECK TO AMEND FLINT RIDGE 2ND C.U.P. TO ADD 10 DWELLING UNITS FRONTING ON PRIVATE ROADWAYS ON PROPERTY GENERALLY LOCATED AT S. 66TH ST. & SOUTH ST. (IN CONNECTION W/00R-24) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-79989 WHEREAS, Hugh Sieck has submitted an application designated as Special Permit 1135C for authority to amend the Flint Ridge 2nd C.U.P. to add 10 dwelling units fronting on private roadways on property located at S. 66th St. & South St., & legally described to wit:

Lot 91 I.T.; Lots 1, 3, & 4, & Lots 7 through 16, Flint Ridge Add.; Lots 1 through 4, Flint Ridge 2nd Add.; Lots 1 through 10, Flint Ridge 3rd Add.; Lots 1 & 2, Flint Ridge 4th Add.; Lots 1 through 8 & Outlot "A", Flint Ridge 5th Add.; Lots 1 through 6 & Outlot "A", Flint Ridge 6th Add.; & Lots 1 through 4 & Outlot "A", Flint Ridge 7th Add., all located in the SE¼ of Sec. 33, T10N, R7E, of the 6th P.M., Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan for this community unit plan will not be adversely affected; &

WHEREAS, said site plan together with the terms & conditions hereinafter set forth are consistent with the intent & purpose of Title 27 of the LMC to promote the public health, safety, & general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the App. of Hugh Sieck, hereinafter referred to as "Permittee", to amend the Flint Ridge 2nd C.U.P. to add 10 dwelling units, on the property legally described above, be & the same is hereby granted under the provisions of Sec. 27.63.320 & Chapter 27.65 of the LMC upon condition that construction & operation of said addition dwelling units be in strict compliance with said application, the site plan, & the following additional express terms, conditions, & requirements:

1. This permit approves 10 additional dwelling units & increases

the total to 57 dwelling units.

2. Before receiving building permits:

- a. The Permittee must submit a revised & reproducible final plan in accordance with the approval of this amendment plus five copies to the Planning Department.
- b. The construction plans must conform to the approved plans.
- c. Final plats within the area of the Flint Ridge C.U.P. must be approved by the City.

3. Before occupying the new dwelling units, all development & construction must be completed in conformance with the approved plans.

4. All privately-owned improvements must be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.

5. The site plan approved by this resolution shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking & circulation elements, & similar matters.

6. The terms, conditions, & requirements of this resolution shall be binding & obligatory upon the Permittee, his successors, & assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.

7. The Permittee shall sign & return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit & the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

8. The site plan approved by this resolution voids & supersedes all previously approved site plans, however, all prior resolutions approving Special Permit 1135 & amendments thereto remain in full force & effect except as specifically amended by this resolution.

Introduced by Jonathan Cook

Seconded by Fortenberry & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ACCEPTING & APPROVING THE PRE. PLAT OF FLINT RIDGE 2ND ADD. ON PROPERTY GENERALLY LOCATED AT S. 66TH ST. & SOUTH ST. (IN CONNECTION W/00R-23) - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-79990 WHEREAS, Hugh Sieck has submitted the Pre. Plat of Flint Ridge 2nd Add. for acceptance & approval; &

WHEREAS, the Lincoln City - Lancaster County Planning Commission has reviewed said Pre. Plat & made recommendations as contained in the letter dated December 2, 1999, which is attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Pre. Plat of Flint Ridge 2nd Add., located S. 66th St. & South St. as submitted by Hugh Sieck is hereby accepted & approved,

subject to the terms & conditions set forth in Exhibit "A", which is attached hereto & made a part of this resolution as though fully set forth verbatim.

Introduced by Jonathan Cook

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

USE PERMIT 118 - APP. OF B & J PARTNERSHIP TO DEVELOP 89,700 SQ. FT. OF COMMERCIAL SPACE & A REDUCTION OF THE FRONT YARD SETBACK ON PROPERTY GENERALLY LOCATED AT S. CODDINGTON AVE. & W. "A" ST. (IN CONNECTION W/00-16, 00-17) - PRIOR to reading:

COOK Moved to delay action on Bill 00R-27 for 1 week to 2/7/00.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SPECIAL PERMIT 1715A - APP. OF DONNA M. CULWELL TO EXPAND THE PERMITTED USE OF A DESIGNATED LANDMARK FOR A TEA ROOM ON THE FIRST FLOOR OF YATES HOUSE ON PROPERTY GENERALLY LOCATED AT 16TH & G STS. - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-79992 WHEREAS, Donna M. Culwell has submitted an application designated as Special Permit 1715A for authority to amend the use of a designated landmark known as the Charles Yates House to expand the use of the first floor of the building for special events to include a regularly scheduled tea room, while continuing to use the remainder of the house for apartments, on property located at the northeast corner of 16th & G Sts., & legally described to wit:

Lots 7 & 8 & the west 5' of Lot 9, Block 153, Original Plat,
Lincoln, Lancaster County, Nebraska;

WHEREAS, as required by Sec. 27.63.400(a) the City Council previously approved a landmark designation for the Charles Yates House. The impact on the surrounding area will be primarily limited to increased parking at such times as weddings, meetings, & other special events are conducted in the structure; however, the public will benefit from the requested use through the ability to thereby finance the continued maintenance of this historic asset; &

WHEREAS, said site plan together with the terms & conditions hereinafter set forth are consistent with the intent & purpose of Title 27 of the LMC to promote the public health, safety, & general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the App. of Donna M. Culwell, hereinafter referred to as "Permittee", to amend the use of a designated landmark known as the Charles Yates House to expand the use of the first floor of the building for special events to include a regularly scheduled tea room, while continuing to use the remainder of the house for apartments be & the same is hereby granted under the provisions of Sec. 27.63.400 of the LMC upon condition that use of said tea room be in strict compliance with said application, the site plan, & the following additional express terms, conditions, & requirements:

1. This permit approves the use of the first floor of the Charles Yates House for special events & for a tea room. The remainder of the house shall continue to be used for residential purposes.

2. Signs for the landmark must receive a Certificate of Appropriateness from the Historic Preservation Commission prior to installation.

3. The parking area adjacent to the east-west alley will be hard surfaced within not more than 24 months following the date of approval of this permit.

4. The construction plans must conform to the approved plans.

5. Before occupying the special event area, all development & construction must be completed in conformance with the approved plans.

6. All privately-owned improvements must be permanently maintained by the Permittee.

7. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking & circulation elements, & similar matters.

8. The terms, conditions, & requirements of this resolution shall be binding & obligatory upon the Permittee, her successors, & assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.

9. The Permittee shall sign & return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit & the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

10. The site plan approved by this resolution voids & supersedes the previously approved site plan, however, the prior resolution approving Special Permit 1715 remains in full force & effect except as specifically amended by this resolution.

Introduced by Jonathan Cook

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

WAIVING THE DESIGN STANDARD CONDITIONS TO ALLOW A DOUBLE FRONTAGE LOT IN THE RIDGE 24TH ADD. ADMIN. FINAL PLAT ON PROPERTY GENERALLY LOCATED BETWEEN BARBARA LN. & WINDING RIDGE RD. - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-79993 WHEREAS, K & M Land Surveying, Inc., on behalf of the owner, has submitted the Admin. Final Plat of The Ridge 24th Add. to the Planning Director for approval; &

WHEREAS, the plat combines three lots into one lot which would have frontage on both Winding Ridge Circle & Barbara Ln.; &

WHEREAS, the Land Subdivision Ordinance prohibits double frontage of residential lots; &

WHEREAS, the applicant has requested a modification to waive said requirement pursuant to Sec. 26.31.010 of the LMC; &

WHEREAS, the Planning Commission has reviewed said request & has made recommendations thereon; &

WHEREAS, the City Council finds that the strict application of all requirements would result in actual difficulties or substantial hardship or injustice to the property owner.

NOW, THEREFORE, BE IT RESOLVED by the City of Lincoln, Nebraska:

That the requirement LMC §§ 26.23.140 prohibiting double frontage lots in residential subdivisions is hereby waived provided that the owner relinquishes access to Barbara Ln. from the proposed lot in the owner's dedication of The Ridge 24th Add..

All other conditions for approval of the Admin. Final Plat shall remain in full force & effect.

Introduced by Jonathan Cook

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

WAIVING THE DESIGN STANDARD CONDITIONS FOR THE INSTALLATION OF SIDEWALKS, PAVING, STREET TREES, & STREET EXTENSION IN THE GRANDVIEW HEIGHTS 1ST ADD. ADMIN. FINAL PLAT ON PROPERTY GENERALLY LOCATED BETWEEN PINE TREE LN. & OGDEN RD., EAST OF N. 7TH ST. - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-79994 WHEREAS, Walter Mientka & Lloyd Tenny ("Owners") have submitted the Admin. Final Plat of Grandview Heights 1st Add. to the Planning Director for approval; &

WHEREAS, the Owners have requested a modification of the Land Subdivision Ordinance to waive installation of the sidewalk, street paving, street trees, & street extension requirements pursuant to Sec. 26.31.010 of the LMC; &

WHEREAS, the Planning Commission has reviewed said request & has made recommendations thereon; &

WHEREAS, the City Council finds that the tract to be subdivided is surrounded by such development or unusual conditions that strict application of all the subdivision requirements would result in actual difficulties or substantial hardship or injustice.

NOW, THEREFORE, BE IT RESOLVED by the City of Lincoln, Nebraska:

That the following modifications to the subdivision requirements be & the same are hereby approved:

a. The requirement of §26.27.020 of the Land Subdivision Ordinance requiring that sidewalks be installed along the south side of Pine Tree Ln. & the north side of Ogden Rd. is hereby waived provided, however, that the City Council may, at any time upon proper notice, order the owners of abutting properties to install sidewalks in such locations & Owners further agree not to object to the installation of sidewalks when deemed necessary by the City.

b. The requirement of §26.27.090 of the Land Subdivision Ordinance requiring that street trees be planted along the south side of Pine Tree Ln. & the north side of Ogden Rd. is hereby waived provided the Owners agree to not remove the existing trees along the south side of Pine Tree Ln. & the north side of Ogden Rd., & further agree not to object to the planting of street trees when deemed necessary by the City.

c. The requirement of §26.27.010 of the Land Subdivision Ordinance requiring that all streets abutting & within a new subdivision shall be paved with curb & gutters is hereby waived for all the streets within this subdivision provided, however, that the Owners agree to sign a petition for & not to object to the creation of a paving district to pave said streets with curb & gutter when deemed necessary by the City.

d. The requirement of §26.23.050 of the Land Subdivision Ordinance requiring that North 10th St. be extended to the limits of the subdivision in order to provide reasonable access to adjoining properties & to facilitate the platting of adjoining property is hereby waived to allow N. 10th St. to terminate in a cul-de-sac/turn-around provided, however, that the Owners agree not to object to the dedication of right-of-way when deemed necessary by the City for a paving district requiring that N. 10th St. be extended in the future.

BE IT FURTHER RESOLVED that the Admin. Final Plat of Grandview Heights 1st Add. shall not be filed for record or recorded in the office of the Register of Deeds of Lancaster County & no lot shall be sold from this Admin. Final Plat unless or until said Owners shall enter into a written agreement with the City which shall provide for the above agreements by Owners with respect to the conditional waivers of the Land Subdivision Ordinance herein granted.

All other conditions for approval of the Admin. Final Plat shall remain in full force & effect.

Introduced by Jonathan Cook

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

PETITIONS & COMMUNICATIONS

FORMAL PAVING PETITION SUBMITTED BY JACQUELINE ANDERSEN FOR PAVING DIST. 2616 IN 72ND ST. FROM HAVELOCK AVE. TO MORRILL AVE. - CLERK presented said petition which was referred to the Law Dept.

THE FOLLOWING WERE REFERRED TO THE PLANNING DEPT.:

Change of Zone 3206 - App. of Realty Trust Group for a change from AG to B-2 on property generally located on the southwest corner of 70th & Pine Lake Rd.

Change of Zone 3207 - App. of Realty Trust Group for a change from AG to B-2 on property generally located on the northwest corner of 84th & Old Cheney Rd.

Change of Zone 3234 - App. of Robert L. Dean for a change from AG to R-3 on property generally located at N. 27th St. & Fletcher Ave.

Change of Zone 3235 - App. of Lancaster County for a change from I-1 to P on property at 14th St. & Dairy Dr.

Special Permit 1827 - App. of Sprint PCS to construct a 100' monopole & equipment platform on property at 1346 Saunders.

Special Permit 1773 - App. of Roger Schwisow to perform the grinding & recycling of rock, asphalt & concrete as a permitted special use of an I-1 Dist. on property generally located at NW 56th St. & W. "O" St.

Special Permit 1794 - App. of Sprint PCS to construct an 80' monopole & equipment platform on property at 445 "A" St.

REPORTS TO CITY OFFICERS

CLERK'S LETTER & MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED ON JAN. 18, 2000 - CLERK presented said report which was placed on file in the Office of the City Clerk.

INVESTMENT OF FUNDS - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-80000 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed & approved, & the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council. (Investments beginning 01/21/00)

Introduced by Jonathan Cook

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNINGS ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED DEC. 31, 1999 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-80001 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That during the month ended Dec. 31, 1999, \$260,140.71 was earned from short-term investments of "IDLE FUNDS". The same is hereby distributed to the various funds on a pro-rata basis using the balance of each fund & allocating a portion of the interest on the ratio that such balance bear to the total of all fund balances.

Introduced by Jonathan Cook

Seconded by Johnson & carried by following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

REPORTS FROM CITY TREASURER OF TELECOMM. OCC. TAX DUE AS FOLLOWS: **Oct. thru Dec., 1999:** Amerivision Comms.; **Nov., 1999:** ATS Mobile Telephone; **Dec., 1999:** Frontier Comm., Nextel West Corp., Sprint Spectrum, Shaffer Comms., Airtime SMR, Network Internat'l, NOSVA Ltd., Long Distance of Michigan, Equality, I-Link Comms., Association Administrators, Sprint Comm. Co., Intellicall Operator, ATS Mobile Telephone, AT&T Comms. of the Midwest, Telco Development Group - CLERK presented said report which was placed on file in the Office of the City Clerk. (20)

REPORT FROM CITY TREASURER OF FRANCHISE FEES DUE FOR THE QUARTER ENDING DEC. 30, 1999 FROM TIMEWARNER CABLE - CLERK presented said report which was placed on file in the Office of the City Clerk. (41-2518A)

ACCEPTING THE REPORT OF NEW & PENDING TORT CLAIMS AGAINST THE CITY & APPROVING DISPOSITION OF CLAIMS SET FORTH THEREIN FOR THE PERIOD OF JAN. 1 THROUGH 15, 2000 - PRIOR to reading:

JOHNSON Moved to amend Bill 00R-31 to remove the claim of Realty Center for further consideration on 2/7/00.

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CLERK Read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-79995 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the claims listed in the attached report, marked as Exhibit "A", dated January 18, 2000, of various new & pending tort claims filed against the City of Lincoln with the Office of the City Attorney or the Office of the City Clerk, as well as claims which have been disposed of, are hereby received as required by Neb. Rev. Stat. Sec. 13-905 (Reissue 1997). The dispositions of claims by the Office of the City Attorney, as shown by the attached report, are hereby approved:

<u>DENIED</u>		<u>ALLOWED</u>	
Ted & Kandice Arnberger	\$ 6,000.00	Colleen Barnes	\$ 7,939.74
Ingrid & Helene Bangers	NAS*	(Jacobs)	
Realty Center	5,884.52	Marie Reinhardt	47,256.84
Kturi Myles	NAS*	Ernest Lawrence Jr.	512.00
Angela Myles	NAS*		
Akeela Anderson	NAS*		
Sharnick Compton	NAS*		
Alberta Mobley	NAS*		
Debora Fette	113.00		
Deboria Fischer on behalf of DaJuan Fischer	18,042.44		

* No amount specified.

The City Attorney is hereby directed to mail to the various claimants listed herein a copy of this resolution which shows the final disposition of their claim.

Introduced by Jonathan Cook

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPROVING A N. 27TH ST. BUSINESS AREA FROM "O" ST. TO FAIR ST. & THE APPOINTMENT OF A BUSINESS IMPROVEMENT BOARD - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-79997 WHEREAS, the City is authorized by the Business Improvement Dist. Act, Neb. Rev. Stat. §§ 19-4015 to 19-4038 (the Act), to create Business Improvement Dists. to provide a means to raise the necessary funds for the purposes enumerated in the Act.

WHEREAS, the City wishes to identify a Business Area as provided in the Act & appoint a Business Area Improvement Board to study & make

recommendations consistent with the Act.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

1. The following area is hereby declared to be an established Business Area of the City of Lincoln zoned for business, public, or commercial purposes for purposes of the Act to be known as the "N27 Business Area", N. 27th St. from "O" St. to Fair St. including all abutting lots or land zoned for business, public, or commercial purposes, as more particularly set forth in Attachment "A" which is incorporated by this reference.

2. The Mayor has appointed & the City Council hereby approves, for the designated terms, the following Business Improvement Board members consisting of property owners, residents, business operators, or users of space within the business area to be known as the N27 Business Improvement Board & who agree to serve without compensation for a 3-yr. term:

Vi Kuhl
Julie Sonderup
Jeff Breunig
Sheldon Kushner
Jon Gauger

3. The N27 Business Improvement Board (Board) shall make recommendations to the City Council for the establishment of a plan or plans for improvements in the N27 Business Area.

4. The Board shall comply with the Act & meet according to law & such rules & by-laws as the Board shall adopt.

5. The Board may make recommendations to the City Council on the proposed boundaries for any Business Improvement Dists. to be established in the N27 Business Area. The Board may also make recommendations as to the use of funds collected & type of assessments, if any, related to the N27 Business Area.

Introduced by Jonathan Cook

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

OTHER RESOLUTIONS

APP. OF LINCOLN HOLDINGS, LTD. DBA YIA YIA'S FOR A CLASS "C" LIQUOR LICENSE AT 1423 O ST. - CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption for approval:

A-79985 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, & the pertinent City ordinances, the City Council recommends that the App. of Lincoln Holdings, Ltd. dba Yia Yia's for a Class C liquor license at 1423 "O" St., Lincoln, Nebraska, for the license period ending Oct. 31, 2000, be approved with the condition that the premise complies in every respect with all city & state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Annette McRoy

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Johnson, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Fortenberry.

MAN. APP. OF NADER SEPAHPUR FOR LINCOLN HOLDINGS, LTD. DBA YIA YIA'S AT 1423 O ST. - CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-79986 WHEREAS, Lincoln Holdings, Ltd. dba Yia Yia's located at 1423 "O" St., Lincoln, Nebraska has been approved for a Retail Class "C" liquor license, & now requests that Nader Sepahpur be named manager;

WHEREAS, Nader Sepahpur appears to be a fit & proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, & the pertinent City ordinances, the City Council recommends that Nader Sepahpur be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Johnson, McRoy, Seng, Shoecraft; NAYS: None; ABSENT: Fortenberry.

APP. OF BENICIO C. LOBO DBA ZAPATA MEXICAN RESTAURANT-CANTINA FOR A RETAIL CLASS I LIQUOR LICENSE AT 815 "O" ST. - PRIOR to reading:

JOHNSON Moved to deny. Motion died due to lack of second.

CLERK Read the following resolution, introduced by Jon Camp, who moved its adoption for approval with the added recommendation that the license holder not have any violations in the first year:

A-79987 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, & the pertinent City ordinances, the City Council recommends that the App. of Benicio C. Lobo dba Zapata Mexican Restaurant-Cantina for a Class I liquor license at 815 "O" St., Lincoln, Nebraska, for the license period ending April 30, 2000, be approved with the condition that the premise complies in every respect with all city & state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, McRoy, Seng, Shoecraft; NAYS: Fortenberry, Johnson.

VACATING HACKBERRY LN. BETWEEN ANTHONY LN. & E. HILLCREST DR., LOCATED IN THE THREE-MILE JURISDICTION OF THE CITY - CLERK read the following resolution, introduced by Annette McRoy.

COOK Moved its adoption for denial & to amend line 11 by deleting the word "approved" & inserting in lieu thereof the word "denied".

A-79988 WHEREAS, the vacation of Hackberry Ln. between Anthony Ln. & E.

Hillcrest Dr., has been requested by Chris & Claire Haag; &

WHEREAS, said street portion is located outside of the corporate limits of the City but within the three-mile zoning jurisdiction of the City; &

WHEREAS, under Neb. Rev. Stat. Sec. 23-108 (Reissue 1991) the City must approve the vacation of said street portion.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the vacation of Hackberry Ln. between Anthony Ln. & E. Hillcrest Dr., which is outside of the corporate limits but within the three-mile zoning jurisdiction of the City of Lincoln, is hereby ~~approved~~ denied.

BE IT FURTHER RESOLVED that the City Clerk transmit a copy of this resolution to the County Clerk for Lancaster County.

Introduced by Annette McRoy

Seconded by McRoy & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPROVING A TRANSFER OF FUNDS IN THE AMOUNT OF \$17,000 FROM THE GENERAL FUND, DEPARTMENT CITY UNASSIGNED, CONTINGENCY DIV. (ACCT. 18001.9235) O & M TRANSFERS TO GENERAL FUND, DEPARTMENT CITY UNASSIGNED, GENERAL EXPENSE DIV. (ACCT. 18002.5865) MINOR BUILDING IMPROVEMENTS FOR THE PURPOSE OF CONSTRUCTING A RESTROOM IN THE CITY COUNCIL/COUNTY BOARD OFFICES - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-79991 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That a transfer of appropriations in the amount of \$17,000 from General Fund, Department City Unassigned, Contingency Division (Acct. No. 18001.9235) O & M transfers to General Fund, Department City Unassigned, General Expense Division, (Acct. No. 18002.5865) Minor Building Improvements, for the purpose of constructing a restroom in the City Council/County Board offices is hereby approved & the Finance Director is authorized to make such transfers upon passage of this resolution.

Introduced by Jonathan Cook

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy; NAYS: Seng, Shoecraft.

REAPPOINTING LINDA WIBBELS TO THE BOARD OF ZONING APPEALS FOR A 5-YR. TERM EXPIRING FEB. 1, 2005 - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-79996 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Linda Wibbels to the Board of Zoning Appeals for a 5-yr. term expiring Feb. 1, 2005 is hereby approved.

Introduced by Jonathan Cook

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPROVING A CONTRACT AMENDMENT BETWEEN THE CITY & RIVER OAKS COMMUNICATION FOR CABLE TELEVISION FRANCHISE CONSULTING SERVICES & APPROVING THE TRANSFER OF FUNDS IN THE AMOUNT OF \$85,000 FROM THE GENERAL FUND, DEPARTMENT CITY

UNASSIGNED, CONTINGENCY DIV. (ACCT. 18001.9235) O & M TRANSFERS TO GENERAL FUND, DEPARTMENT CITY UNASSIGNED, GENERAL EXPENSE DIV. (ACCT. 18002.5628) CONSULTANTS, FOR SAID CONTRACT EXTENSION - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-79998 WHEREAS, the City of Lincoln currently has granted a franchise to operate a cable communication system in the City of Lincoln to Time Warner Entertainment - Advance/Newhouse (the Cable Operator);

WHEREAS, the City has commenced discussions & negotiations with the Cable Operator related to a new franchise;

WHEREAS, the City has contracted with River Oaks Communications Corp. for assistance in undertaking the franchise renewal negotiations; &

WHEREAS, the negotiations have taken longer than anticipated & a contract amendment is necessary.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the attached proposal between the City of Lincoln & River Oaks Communication for continued Cable Television Franchise consulting services through May, 2000, for an amount not to exceed \$60,000, excluding expenses, is hereby approved. In conjunction therewith, it is also authorized to transfer appropriations in the amount of \$85,000 from the General Fund, Department City Unassigned, Contingency Division (Account No. 18001.9235) O & M Transfers to General Fund, Department City Unassigned, General Expense Division (Account 18002.5628) Consultants for the purposes of this amendment.

Introduced by Jonathan Cook

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPROVING A 4 YR. CONTRACT BETWEEN THE CITY & PHANTOM, INC. FOR VEHICULAR TOWING & STORAGE (WAS AMENDED TO EXTEND PRESENT CONTRACT FOR 1 YR., 1/31/2001) - PRIOR to reading:

SHOERAFT Moved to reconsider Bill 00R-5.

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CAMP Moved to amend Bill 00R-5 to return it back to the 4 year contract & to include McRoy's Amendment from 1/24/00 as follows: on page 7 of Attachment "A: (Contract with Phantom, Inc.) At the end of paragraph 6, Storage of Vehicles: Impound Lot, add a new paragraph as follows:

(g) Contractor agrees that it will not use Y St., New Hampshire street, and/or Charleston St. for towing/transporting cars to the Impound Lot unless the tow/transport originates on Y St., New Hampshire St., Charleston St., or within three blocks of these streets & west of 13th St.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CLERK Read the following resolution, introduced by Jon Camp, who moved its adoption:

A-79979 WHEREAS, the City of Lincoln desires to renew a 4-yr. contract with Phantom Inc. vehicular towing & storage services; &

WHEREAS, the City of Lincoln & Phantom Inc. are agreeable to renew a 4-yr. contract for such purposes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the 4-yr. contract between Phantom Inc. & the City of Lincoln, Nebraska, a copy of which contract is attached hereto, marked as Attachment "A" & made a part hereof by reference, is hereby approved & the Mayor is authorized to execute the same on behalf of the City.

The City Clerk is directed to return one full executed copy of said contract to Phantom Inc. & one copy of said contract to the Lincoln Police Department.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Johnson, McRoy, Seng, Shoecraft; NAYS: Fortenberry.

SETTING HEARING DATE OF MON., FEB. 14, 2000 AT 1:30 P.M. ON THE APP. OF LAN SIU WONG DBA THAI BINH FOR A RETAIL CLASS I LIQUOR LICENSE AT 1309 L ST. - CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-79999 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., Feb. 14, 2000 at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the App. of Lan Siu Wong dba Thai Binh for a Retail Class I Liquor License at 1309 L St.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Jonathan Cook

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ORDINANCES - 1ST & 2ND READING

AMENDING PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE PREFIXED BY THE LETTER "A" BY DELETING THE JOB CLASSIFICATION OF "CIVIL ENGINEER II" - CLERK read an ordinance, introduced by Jonathan Cook, amending Sec. 1 of Ord. 17394 relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter "A" by deleting the job classification of "Civil Engineer II", the first time.

AMENDING PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE PREFIXED BY THE LETTER "M" BY DELETING THE JOB CLASSIFICATION OF "CIVIL ENGINEER III" - CLERK read an ordinance, introduced by Jonathan Cook, amending Sec. 5 of Ord. 17539 relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter "M" by deleting the job classification of "Civil Engineer III", the first time.

AMENDING PAY SCHEDULES OF EMPLOYEES WHOSE CLASSIFICATIONS ARE ASSIGNED TO THE PAY RANGE PREFIXED BY THE LETTER "N" BY CREATING THE CLASSIFICATIONS OF "PARKS

WELDER II", "PARKS PLUMBER I", & "PARKS PLUMBER II"; BY CHANGING THE CLASS TITLE OF "WELDER" TO "PARKS WELDER I"; & BY DELETING THE JOB CLASSIFICATION OF "PRINT MACHINE OPERATOR" - CLERK read an ordinance, introduced by Jonathan Cook, amending Sec. 5 of Ord. 17394 relating to the pay schedules of employees whose classifications are assigned to the pay range which is prefixed by the letter "N" by creating the job classifications of "Parks Welder II", "Parks Plumber I" & "Parks Plumber II"; by changing the current job classification of "Welder" to "Parks Welder I"; & by deleting the job classification of "Print Machine Operator", the first time.

APPROVING THE QUE PLACE NOTCH REDEVELOPMENT AGREEMENT BETWEEN THE CITY & CONCORD HOSPITALITY INC.; WHICH AUTHORIZES THE SALE OF PROPERTY & THE DEVELOPMENT OF A RESTAURANT AT LOT 1, QUE PLACE ADD. TO BLOCK 36 - CLERK read an ordinance, introduced by Jonathan Cook, accepting & approving the Que Place Notch Redevelopment Agreement ("Redevelopment Agreement") between the City of Lincoln & Concord Hospitality, Inc. ("Concord"), the first time.

VACATING W. "E" ST. BETWEEN S.W. 6TH & S. FOLSOM STS. - CLERK read an ordinance, introduced by Jonathan Cook, vacating W. "E" St. between SW 6th & S. Folsom Sts., & retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the first time.

AMENDING TITLE 26 OF THE LMC TO ADD A SECTION TO DEFINE "MINIMUM FLOOD CORRIDOR", TO ADOPT THE POLICY RECOMMENDATION RELATED TO THE COMPREHENSIVE STORMWATER MANAGEMENT PLAN, TO ESTABLISH A REQUIREMENT FOR THE REMOVAL OF SEDIMENT FROM STREETS, ALLEYS, SIDEWALKS, PUBLIC WAYS, OR PUBLIC GROUNDS, & PROVIDING A PENALTY FOR FAILURE TO DO SO. (IN CONNECTION W/00-29, 00-30, 00R-38) - CLERK read an ordinance, introduced by Jonathan Cook, amending Title 27 of the LMC, the Land Subdivision Ordinance, by amending Chapter 26.07 of the LMC by adding a new section numbered 26.07.126 to provide a definition of "minimum flood corridor"; amending Secs. 26.11.038, 26.15.020, 26.19.031, 26.23.105, 26.23.120, 26.23.190, & 26.27.060 of the LMC to adopt the policy recommendations of the Mayor's Stormwater Advisory Committee related to the Comprehensive Stormwater Management Plan; amending Chapter 26.31 of the LMC to add a new section numbered 26.31.040 to establish a requirement for the removal of sediment from streets, alleys, sidewalks, public ways or public ground & providing a penalty for failure to do so; & repealing Secs. 26.11.038, 26.15.020, 26.19.031, 26.23.105, 26.23.120, 26.23.190, & 26.27.060 of the LMC as hitherto existing, the first time.

CHANGE OF ZONE 3216 - AMENDING TITLE 27 OF THE LMC TO PROVIDE GRADING & LAND DISTURBANCE REGULATIONS FOR THE AG, AGR, R-1 THROUGH R-8, O-1 THROUGH O-3, R-T, B-1 THROUGH B-5, H-1 THROUGH H-4, & I-1 THROUGH I-3 ZONING DISTS.. (IN CONNECTION W/00-28, 00-30, 00R-38) - CLERK read an ordinance, introduced by Jonathan Cook, amending Title 27 of the LMC by adding new sections numbered 27.07.075, 27.09.075, 27.11.075, 27.13.075, 27.15.075,

27.17.075, 27.18.075, 27.19.075, 27.21.075, 27.23.075, 27.24.075,
27.25.065, 27.26.075, 27.27.065, 27.28.075, 27.29.075, 27.31.085,
27.33.075, 27.35.065, 27.37.055, 27.39.065, 27.41.075, 27.43.075,
27.45.065, 27.47.065, 27.49.075, 27.51.085 to provide grading & land
disturbance regulations for the AG, AGR, R-1 through R-8, O-1 through O-3,
R-T, B-1 through B-5, H-1 through H-4, & I-1 through I-3 Zoning Dists.,
respectively; amending Sec. 27.81.010 of the LMC to adopt the policy
recommendations of the Mayor's Stormwater Advisory Committee related to
the Comprehensive Stormwater Management Plan; & repealing Sec. 27.81.010
of the LMC as hitherto existing, the first time.

AMENDING CHAPTER 20.12 OF THE LMC TO ADOPT THE POLICY RECOMMENDATION RELATED TO
THE COMPREHENSIVE STORMWATER MANAGEMENT PLAN. (IN CONNECTION W/00-28, 00-
29, 00R-38) - CLERK read an ordinance, introduced by Jonathan Cook,
amending Chapter 20.12 of the LMC, the Lincoln Building Code, by amending
Sec. 20.12.090 to adopt the policy recommendations of the Mayor's
Stormwater Advisory Committee related to the Comprehensive Stormwater
Management Plan; & repealing Sec. 20.12.090 of the LMC as hitherto
existing, the first time.

AMENDING SEC. 9.16.230 OF THE LMC TO DEFINE "NUDITY" & TO MAKE IT UNLAWFUL FOR
A PERSON TO APPEAR IN ANY PUBLIC PLACE IN A STATE OF NUDITY OR FOR AN
EMPLOYEE OR PERFORMER TO HAVE ANY PHYSICAL CONTACT WITH ANY PATRON - PRIOR
to reading:

JOHNSON Moved to place Bill 99-14 on Pending for 2 weeks with Pub. Hearing
& Action on 2/14/00.

Seconded by McRoy & carried by the following vote: AYES: Camp,
Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CLERK Read an ordinance, introduced by Jon Camp, whereas, the City Council
recognizes & believes the public health, safety, & welfare of the
community to be adversely effected by public nudity, not only as an
offense to the protection of order & morality in the community but also
due to secondary adverse effects of public nudity including, but not
necessarily limited to, prostitution, assaultive behavior, & other related
criminal behavior, the second time.

AMENDING SEC. 10.06.120 OF THE LMC TO PROVIDE FOR A FINE FOR PARKING OF TRUCKS
OR OTHER OVERSIZED VEHICLES ON STREETS ADJACENT TO RESIDENTIALLY ZONED
PROPERTY - CLERK read an ordinance, introduced by Jon Camp, amending
Chapter 10.06 of the LMC relating to the administration & enforcement of
vehicles & traffic by amending Sec. 10.06.120 to provide for a specific
parking fine for a violation of LMC Sec. 10.32.070 which places
prohibitions on the parking of trucks & other oversized vehicles on
streets adjacent to residentially zoned property; & repealing Sec.
10.06.120 of the LMC as hitherto existing, the second time.

CHANGE OF ZONE 3182 - APP. OF THE B & J PARTNERSHIP & THE PLANNING DIRECTOR FOR
A CHANGE FROM R-2 RESIDENTIAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS & FROM
R-2 RESIDENTIAL TO P PUBLIC ON PROPERTY GENERALLY LOCATED AT S. CODDINGTON
AVE. & W. "A" ST. (IN CONNECTION W/00-17, 00R-27) - CLERK read an

ordinance, introduced by Jon Camp, amending the Lincoln Zoning Dist. Maps attached to & made a part of Title 27 of the LMC, as provided by Sec. 27.05.020 of the LMC, by changing the boundaries of the districts established & shown thereon, the second time.

DECLARING APPROX. 0.9 ACRES OF PROPERTY GENERALLY LOCATED AT S. CODDINGTON AVE. & W. "A" ST. AS SURPLUS & AUTHORIZING THE SALE THEREOF. (IN CONNECTION W/00-16, 00R-27) - CLERK read an ordinance, introduced by Jon Camp, declaring a tract of City-owned property generally located at S. Coddington Ave. & W. "A" St. as surplus & authorizing the sale thereof to B & J Partnership, the second time.

CHANGE OF ZONE 3230 - AMENDING SEC. 27.55.040(D) OF THE LMC TO DELETE THE REFERENCE TO MEAN SEA LEVEL & ADD A REFERENCE TO NORTH AMERICAN VERTICAL DATUM (NAVD) 1988 - CLERK read an ordinance, introduced by Jon Camp, amending Sec. 27.55.020 of the LMC to delete the reference to mean seal level & add a reference to North American Vertical Datum (NAVD) 1988; & repealing Sec. 27.55.040 of the LMC as hitherto existing, the second time.

CHANGE OF ZONE 3223 - AMENDING SEC. 27.07.080 OF THE LMC TO ALLOW FOR COUNTY ROAD RIGHT-OF-WAY TO BE INCLUDED IN LOT AREA UNDER CERTAIN CIRCUMSTANCES - CLERK read an ordinance, introduced by Jon Camp, amending Sec. 27.07.080 of the LMC to reflect county language & to allow for county road right-of-way to be included in lot area under certain circumstances; & repealing Sec. 27.07.080 of the LMC as hitherto existing, the second time.

CHANGE OF ZONE 3226 - APP. OF BRIAN D. CARSTENS & ASSOCIATES FOR A CHANGE FROM I-2 INDUSTRIAL ARK TO H-3 HIGHWAY COMMERCIAL ON PROPERTY GENERALLY LOCATED AT APPROX. W. COMMERCE WAY & W. BOND ST., NEAR NW 12TH ST. - CLERK read an ordinance, introduced by Jon Camp, amending the Lincoln Zoning Dist. Maps attached to & made a part of Title 27 of the LMC, by changing the boundaries of the districts established & shown thereon, the second time.

CHANGE OF ZONE 3228 - APP. OF JEROME HITTNER FOR A CHANGE FROM AG AGRICULTURAL TO R-3 RESIDENTIAL ON PROPERTY GENERALLY LOCATED EAST OF S. 84TH ST. & 200' NORTH OF OLD CHENEY RD. - CLERK read an ordinance, introduced by Jon Camp, amending the Lincoln Zoning Dist. Maps attached to & made a part of Title 27 of the LMC, as provided by Sec. 27.05.020 of the LMC, by changing the boundaries of the districts established & shown thereon, the second time.

MISCELLANEOUS BUSINESS

PENDING LIST -

CAMP Moved to extend the Pending List for 1 week.
 Seconded by Johnson & carried by the following vote: AYES: Camp,
 Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

UPCOMING RESOLUTIONS -

CAMP Moved to approve the resolutions to have Public Hearing on Feb. 7,
 2000.
 Seconded by Johnson & carried by the following vote: AYES: Camp,
 Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ADJOURNMENT

5:05 P.M.

CAMP Moved to adjourn the City Council Meeting of Jan. 31, 2000.
 Seconded by Johnson & carried by the following vote: AYES: Camp,
 Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

So ordered.

Paul A. Malzer, Jr., City Clerk

Teresa J. Meier-Brock, Office Assistant III